



CUCAMONGA COUNTY WATER DISTRICT

9541 SAN BERNARDINO RD. • CUCAMONGA, CALIF. 91730 • P.O. BOX 538 • 987-2591

VICTOR A. CHERBAK, JR., *President*

Vice-President
FRANK LESINSKY

Secretary, General Manager
LLOYD W. MICHAEL

Directors
CHARLES T. VATH
EARLE R. ANDERSON
ROBERT NESBIT

February 11, 1981

Mr. Adolph Moskovitz
555 Capital Mall
Suite 900
Sacramento, CA 95814

Re: Cucamonga Basin

Dear Mr. Moskovitz:

Enclosed is a copy of the Stipulated Decree covering the Cucamonga Basin.

As a result of purchases over the years, our District now holds 15,351 acre feet. San Antonio Water Company controls 6,500 acre feet, Upland Water Company controls 750 acre feet, and Western Fruit Growers controls 120 acre feet. However, I doubt that Western's will ever be used.

We have always felt that the Basin was over stipulated, and that the actual safe yield would be in the area of 15,000 to 16,000 acre feet. The Basin is small and reacts quickly to precipitation, and long seasonal pumping.

If you have any further questions, please call me.

Yours truly,

CUCAMONGA COUNTY WATER DISTRICT

Lloyd W. Michael
General Manager

LWM:j
enclosure

1 WALKER, WRIGHT, TYLER & WARD
2 210 West 7th Street, Suite 631
3 Los Angeles 14, California
4 TRinity 8936

5 Attorneys for Plaintiff
6
7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN BERNARDINO
10
11

12 SAN ANTONIO WATER COMPANY, a corporation,
13 Plaintiff,

14 -vs-

15 FOOTHILL IRRIGATION COMPANY, a corporation;
16 SUNSET WATER COMPANY, a corporation; IOAMOSA
17 WATER COMPANY, a corporation; and OLD SETTLERS
18 WATER COMPANY, a corporation; ALTA LOMA MUTUAL
19 WATER COMPANY, a corporation; ARMSTRONG
20 NURSERIES, a corporation; BANYAN HEIGHTS WATER
21 COMPANY, a corporation; CARNELIAN WATER
22 COMPANY, a corporation; CITRUS WATER COMPANY,
23 a corporation; CUCAMONGA DEVELOPMENT COMPANY,
24 a corporation; CUCAMONGA WATER COMPANY, a
25 corporation; HEDGES WELL COMPANY, a corpor-
26 ation; HELLMAN WATER COMPANY, a corporation;
27 HERMOSA WATER COMPANY, a corporation;
28 JOYA MUTUAL WATER COMPANY, a corporation;
29 REX MUTUAL WATER COMPANY, a corporation;
30 SAPPHIRE MUTUAL WATER COMPANY, a corporation;
31 CHARLES SNYDER; UPLAND WATER COMPANY, a
32 corporation; HENRY G. BODKIN and BANK OF
AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION,
as Executors of the last will of Giovanni Vai,
deceased; WESTERN FRUIT GROWERS, a corporation;
HUGH P. CRAWFORD; G. N. HAMILTON RANCH, a
partnership composed of Arthur Bridge, Helen
Bridge, and Grace W. Burt; JOHN DOE ONE to
THIRTY inclusive, MARY ROE ONE to THIRTY
inclusive, JOHN DOE COMPANY ONE to TWENTY
inclusive,

Defendants.

No. 92645

D E C R E E

1 WHEREAS, there has been filed in the above entitled
2 action, a Stipulation for Judgment duly executed by and on the
3 part of each and all of the following named parties to said action
4 (who are collectively hereinafter referred to as the "stipulating
5 parties"), to wit:

6 San Antonio Water Company, a corporation;
7 Foothill Irrigation Company, a corporation;
8 Ioamosa Water Company, a corporation;
9 Old Settlers Water Company, a corporation;
10 Sunset Water Company, a corporation;
11 Cucamonga Water Company, a corporation;
12 Alta Loma Mutual Water Company, a corporation;
13 Armstrong Nurseries, a corporation;
14 Banyan Heights Water Company, a corporation;
15 Carnelian Water Company, a corporation;
16 Citrus Water Company, a corporation;
17 Hedges Well Company, a corporation;
18 Hellman Water Company, a corporation;
19 Hermosa Water Company, a corporation;
20 Joya Mutual Water Company, a corporation;
21 Upland Water Company, a corporation;
22 Western Fruit Growers, a corporation;
23 Cucamonga Development Company, a corporation;
24 Sapphire Mutual Water Company, a corporation;
25 Charles Snyder;
26 Hugh P. Crawford;
27 Bank of America National Trust and Savings Association,
28 a national banking association, and Henry G. Bodkin,
29 as executors of the last Will of Giovanni Vai, deceased;
30 G. N. Hamilton Ranch, a partnership composed of Arthur
31 Bridge, Helen Bridge, Grace W. Burt;
32

1 and Rex Mutual Water Company.

2 and,

3 WHEREAS, the Court has heard and considered evidence on the
4 part of various of the stipulating parties,

5 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
6 by this Court that:

7 FIRST: As used herein, the terms listed below shall have
8 the respective meanings next following them, viz:

9 (a) "Cucamonga Basin" or "Basin" shall mean that certain
10 territory in the County of San Bernardino, State of California,
11 which is more particularly described upon Exhibit 1, and shall
12 also include all percolating water and underground water and water
13 sources underlying said territory;

14 (b) "Imported water" shall mean water derived from a
15 stream flow in an area outside of any water shed draining into the
16 Cucamonga Basin. Specifically, water derived from San Antonio
17 Canyon and/or Creek is "imported water".

18 (c) "Irrigation season" shall mean that portion of each
19 year when irrigating is required by the users of the water sold by
20 the Plaintiffs and Defendants hereto. While this period varies
21 considerably from year to year, the irrigating season generally
22 commences during any month in which the rainfall does not exceed
23 two inches, and the season generally terminates after the first
24 rainfall of two inches or more. The season usually approximates
25 the period from May 1st to November 1st.

26 "Spreading season" is the balance of each year remaining
27 after deducting the irrigation season for such year, and is
28 usually approximately the period from November 1st of one year to
29 May 1st of the succeeding year.

30 "Spread" with respect to water shall mean to conduct the
31 same upon and sink the same into the gravels of Cucamonga Basin
32 during a spreading season.

1 (d) "Aggregate stipulated water" means the total number
2 of acre feet of water set opposite the names of all stipulating
3 parties in Exhibit 2.

4 (e) "Pro-rata" means, in each case, in the same propor-
5 tion as the acre feet listed opposite the name or names of the
6 party or respective parties in question bear to the aggregate
7 stipulated water; and the verb "pro-rate" means to divide and
8 share pro-rata among the stipulating parties.

9 (f) "Allocated water" of any stipulating party or parties
10 in each case means the number of acre feet of water set out on
11 Exhibit 2 opposite the name or names of such party or parties.

12 (g) "Ten preceding years" means the period of ten con-
13 secutive calendar years which immediately precedes or has preceded
14 the year or event mentioned.

15 (h) "Five-sixths of the water users" shall mean stipu-
16 lating parties having in the aggregate allocated water which is
17 not less than five-sixths of the total allocated water of all
18 stipulating parties.

19 (i) An "inch" of water or a "miner's inch" of water shall
20 mean a flow of water equal to one-fiftieth (1/50th) of a cubic
21 foot of water per second of time.

22 (j) Any party hereto the corporate name of which ends
23 with "Water Company" or "Mutual Water Company" will be hereinafter
24 referred to without such words. Thus "San Antonio" means herein
25 "San Antonio Water Company" and similarly with the other parties
26 using said words "Water Company" or "Mutual Water Company".

27 (k) "Canyon pipeline" shall mean the pipeline (varying in
28 size between approximately 32 inches in inside diameter and about
29 18 inches) which extends Southerly from a point on the channel of
30 Cucamonga Creek at an elevation of approximately 2350 feet above
31 sea level (herein called "Northerly intake") to the "round weir"
32 mentioned below.

(l) "Round weir" shall mean that certain weir of Ioamosa marked on the map Exhibit 3 as "Round Weir" and located near the top of the bluff on the East side of Cucamonga Creek and just Northerly from the Westerly prolongation of Almond Street, said weir being the point from which (a) two ten-inch water lines marked on the map Exhibit 3 as "Ioamosa 10 inch" lead Easterly to Ioamosa's Carnelian Street Reservoir (at about elevation 2030 feet above sea level on the East side of Carnelian Street between Hillside Road and Almond Street); (b) a six-inch water line marked on the map Exhibit 3 as "Hamilton 6 inch" leads Southeasterly to the Hamilton Ranch (which lies South of Hillside Road, North of Banyan Street, East of Sapphire Street and West of Carnelian Street), and, (c) an eight-inch water line marked on the map Exhibit 3 as "Banyan 8 inch" runs Southerly down Topaz Street to connect with the water system of Banyan Heights.

(m) "Reservoir Weir" means the weir of Ioamosa located at the Carnelian Street Reservoir.

(n) "Ioamosa Southerly Intake" shall mean a line extending West across the channel of Cucamonga Creek from the existing "Canyon Weir" of Ioamosa marked on the map Exhibit 3 as "Canyon Weir", which weir is located in Cucamonga Canyon, is part of the Canyon pipeline, and is situated about midway (or somewhat Northerly thereof) between the round weir and the Northerly intake mentioned above.

(o) "Schulhof pipe-line" means that certain three-inch water pipe-line marked on the map Exhibit 3 as "Schulhof 3 inch" which connects with the Canyon pipe-line Northerly of the round weir, and which is mentioned in paragraph Second(h) of that certain decree dated April 12, 1937, in action No. 29,799 (Schulhof v. Cucamonga Development Company) in the above entitled Superior Court.

(p) The water to which Ioamosa is entitled as provided in paragraph "Third" hereof is herein called "Ioamosa gravity water", or "gravity water".

(q) "An overflow year" shall mean any calendar year for which

1 the water level determined as hereinafter provided in the index
2 well is at an elevation of 1345 feet or higher above sea level.

3 For the purposes of determination of elevation above sea
4 level the United States Geological Survey bench mark on Baseline
5 (also known as 16th Street) as it exists on the date this decree is
6 entered, on or near the north boundary of Section 4, Township 1
7 South, Range 7 west, and approximately four-fifths of a mile west of
8 Vineyard Avenue, shall be deemed to be at an elevation above sea
9 level of 1454 feet. The elevation of the water level in such index
10 well shall be determined by measuring the elevation of such water
11 in such well on October 1st of each year (Provided that if any such
12 day falls on a Sunday or a holiday, measurements shall be made on
13 the next business day). The index well shall be the well known
14 as Shaft No. 9-A of the San Antonio Water Company located approx-
15 imately 154 feet Southerly of the Northwest corner of Lot 14 of
16 Red Hill subdivision and shown on the map Exhibit 5. Wells No. 11
17 of Cucamonga Water Company and 20 and 22 of the San Antonio Water
18 Company shall not be pumped within three days before such date of
19 measurements, and the tunnel bulkhead adjacent to Red Hills Country
20 Club will be kept closed for a like period before such date. If
21 for any reason Shaft 9-A shall not be available for measurement,
22 then the index well shall be Wells No. 11 of Cucamonga Water Company
23 or 20 or 22 of the San Antonio Water Company, in the order herein
24 listed. If for any reason none of said wells shall be available
25 for such measurement, the identity and location of the index well
26 may be determined by a written stipulation executed by five-sixths
27 of the water users and filed in said action, or in default of
28 said stipulation by order of the said court.

29 Annexed to this Decree and hereby incorporated herein are the
30 following Exhibits:

31 Exhibit 1: A description of the territory under which
32 lies the "Cucamonga Basin";

1 Exhibit 2: A list of the "allocated water" of each party
2 (Other than the stream flow mentioned in paragraph "Third");

3 Exhibit 3: A map of "Cucamonga Pipe Lines";

4 Exhibit 4: A map of "Cucamonga Spreading Works";

5 Exhibit 5: A map of "Well and Shaft Locations";

6 and said exhibits are herein respectively referred to as "Exhibit 1",
7 "Exhibit 2", "Exhibit 3", "Exhibit 4" and "Exhibit 5".

8 SECOND: This paragraph deals with the right and quantity of
9 water San Antonio may annually hereafter extract from the Cucamonga
10 Basin as reduced by its failure to previously annually spread therein
11 the minimum amount of water hereinafter set forth, or as increased by
12 its previously annually spreading more imported water therein than
13 said minimum, excepting, however, in both such situations the spread-
14 ing of imported water during years in which such spread causes
15 the Basin to overflow resulting in such year constituting an overflow
16 year, as defined in Paragraph First, subdivision (q) thereof.

17 For the purpose of the computation in this Paragraph Second,
18 it shall be assumed that San Antonio has spread in each of the ten
19 years previous to 1957, 2,000 acre feet of imported water.

20 With respect to each calendar year after entry of this decree
21 each preceding ten year period shall be divided into "included" and
22 "Excluded" years. "Excluded years" are those calendar years which
23 are defined as overflow years in Paragraph First, subdivision (q)
24 thereof. All other calendar years are "included years".

25 If in the ten preceding years San Antonio shall have spread
26 less than 2,000 acre feet of imported water in any of the included
27 years, as modified by the assumption above set forth, the difference
28 between (a) The amount of imported water which shall have been so
29 spread in such included years, and (b) The quantity of 2,000 acre
30 feet multiplied by the number of included years, shall be known
31 as the "ten year deficit".

32 Any right of San Antonio to extract water from the Cucamonga

1 Basin in any calendar year after the entry of this decree shall be
2 reduced by the number of acre feet of water equal to the ten year
3 deficit divided by the number of included years, if any such deficit
4 shall have occurred, so that such right to extract water for such
5 year shall not exceed 6,500 acre feet less the ten year deficit
6 divided by the number of included years.

7 Correspondingly, with respect to each calendar year after
8 the entry of this decree, if in the ten preceding years San Antonio
9 shall have spread more than 2,000 acre feet of imported water in any
10 of the included years, as modified by the assumption above set forth,
11 the difference between (a) The amount of imported water which shall
12 have been so spread in such included years, and (b) The quantity of
13 2,000 acre feet multiplied by the number of included years, shall be
14 known as the "ten year surplus".

15 The right of San Antonio to extract water from the Cucamonga
16 Basin in any calendar year after the entry of this decree, shall be
17 increased by a number of acre feet of water equal to 95 percent of
18 the ten year surplus divided by the number of included years, if any
19 such surplus shall have occurred, so that there shall be added for
20 such year to San Antonio's right to extract 6,500 acre feet of water
21 a number of acre feet of water equal to 95 percent of the ten year
22 surplus divided by the number of included years. Provided, however,
23 that in no case shall such increased extraction exceed 2,000 acre
24 feet of water for any one calendar year.

25 So long as the water level in the index well referred to in
26 paragraph First, subdivision (q) herein is at an elevation below
27 1345 feet above sea level, and in the event San Antonio has available
28 in any one calendar year after the year 1956 more than 2,000 acre feet
29 of imported water, and desires to sell the same, it shall, before selling
30 such imported water to others not parties to this Decree, annually
31 offer to sell such imported water to the other stipulating parties
32 hereto for spreading in the Cucamonga Basin and at a price to be fixed

1 between the parties by negotiation, but in any event to be not
2 greater than the price San Antonio can obtain from others not
3 parties of this Decree.

4 In the event San Antonio and the other stipulating parties
5 hereto do not agree by October 1st to the terms for the purchase
6 of said imported water to be sold and spread during the next
7 succeeding spreading season, then San Antonio is thereafter free
8 to sell such imported water to other persons not parties hereto,
9 or at its option, it may spread such imported water in the Cucamonga
10 Basin and by so spreading will receive the credit for water
11 spread as provided in this paragraph Second. If the stipulating
12 parties and San Antonio agree to the purchase from San Antonio
13 of any imported water, and such stipulating parties, other than
14 San Antonio, purchase said water and the same is spread in the
15 Cucamonga Basin, then during such year no credit shall be
16 given to San Antonio toward estimating its ten year surplus
17 or deficit for the amount of water so purchased and spread.

18 THIRD: Ioamosa and Hamilton Ranch, a partnership composed
19 of Arthur Bridge, Helen Bridge and Grace W. Burt, are the owners
20 of the paramount right to take and divert throughout each year
21 at or Northerly from the Ioamosa Southerly intake all surface
22 and subsurface flow of Cucamonga Creek, not exceeding however
23 two hundred fifty (250) miner's inches of water, (measured at
24 the round weir and the intake to the Schulhof pipeline), including
25 any water which shall be supplied to the Schulhof pipeline under
26 the terms of said decree in action No. 29,799 or otherwise. The
27 right to said flow of Cucamonga Creek up to 250 miner's inches
28 per year is subject to an obligation of Hamilton Ranch and Ioamosa
29 to deliver water into the Schulhof pipeline, and the balance of
30 said water is owned by Hamilton Ranch and Ioamosa in the following
31 proportions:

32 (a) Hamilton Ranch 128/1200ths thereof;

1 (b) Ioamosa 1072/1200ths thereof, subject to the right
2 of Sapphire to the extent of one (1) inch from the weir box on
3 Ioamosa's pipeline located approximately 1200 feet East of the
4 "round weir".

5 The rights of Ioamosa to the Ioamosa gravity water are
6 subject to the provisions hereof. Ioamosa may transport such
7 gravity water to any location or locations whether within or without
8 the basin, and use or deliver such water at any such location or
9 location, provided, however, if any of the Ioamosa gravity water is
10 used or conducted outside the Basin in any year, then the quantity of
11 water which Ioamosa shall be entitled to develop or extract from the
12 Basin by Paragraph Fourth and Exhibit 2 herein during the next
13 succeeding year shall be reduced by an amount equal to the quantity
14 of Ioamosa gravity water so used or conducted outside the Basin
15 during such year.

16 The stipulating parties hereto shall within sixty (60) days
17 after the date of this judgment, at their proportionate expense, con-
18 struct in a manner which shall have been approved by San Antonio
19 Water Company or by the above entitled Court a dividing weir located
20 where Ioamosa now maintains the "round weir". Such dividing weir
21 shall be so constructed that it will automatically limit to 249
22 inches the amount of water that will flow into the above mentioned
23 four outgoing lines that are now connected with the round weir and
24 are referred to in paragraph First (1) herein.

25 Within sixty (60) days after the date of this judgment
26 the stipulating parties hereto shall also construct in a manner
27 which shall have been approved by San Antonio Water Company or
28 by the above entitled Court a dividing weir at the said
29 Carnelian Street reservoir. The dividing weir at this point shall
30 be so constructed as to permit Ioamosa to divert fifty inches of
31 such Ioamosa gravity water to domestic use.
32

1 During each spreading season, the remaining amount of Ioamosa
2 gravity water over and above fifty (50) inches, shall be either:

3 (a) Used for irrigation purposes over Cucamonga Basin; or,

4 (b) Spread over Cucamonga Basin in the spreading grounds
5 of Ioamosa or Banyan Heights Water Company; or

6 (c) Returned by Ioamosa to the channel of Cucamonga Creek.

7 During each spreading season all of the flow of Cucamonga
8 Creek in excess of such 250 inches after passing through the debris
9 basins numbered C1 to C12 inclusive on Exhibit 4 shall be spread in
10 spreading grounds which now exist, or are now under construction, or
11 which are proposed, as shown on Exhibit 4, including the channel or
12 wash of Cucamonga Creek, and which overlie the Cucamonga Basin and
13 are North of Baseline Road. Whenever such spreading grounds are all
14 overflowing, or would overflow, the waters which do or would so over-
15 flow may be spread in the "15th St. Spreading Grounds" as shown on
16 said map, and when the "15th St. Spreading Grounds" also do or would
17 overflow, the waters which do or would so overflow the "15th St.
18 Spreading Grounds" may be spread in what is known as the "8th Street
19 Spreading Grounds", all as shown on Exhibit 4, even though all or part
20 of such spreading grounds do not overlie the Cucamonga Basin.

21 Such spreading shall be done at one or more locations in said
22 spreading grounds which shall be approved by San Antonio.

23 Such flow of Cucamonga Creek may be spread at other locations
24 than above provided, and outside the area above described upon the
25 written consent of 5/6th of the water users, as defined in paragraph
26 First subdivision (k) of this Decree.

27 If any costs are incurred in such spreading by any party
28 hereto, for which such party would not otherwise be reimbursed, such
29 costs shall be pro-rated between the parties hereto.

30 FOURTH: The rights of all stipulating parties to take water
31 from Cucamonga Basin, subject to the adjustments set forth in this
32 decree and to the provisions of paragraphs Second and Third above,

are hereby fixed at the quantities set forth in Exhibit 2. Such rights are correlative, and except as to quantity or as herein otherwise stated are equal. No stipulating party shall have any right to export water from the Cucamonga Basin or use water extracted from the Cucamonga Basin at any place other than over the Cucamonga Basin except as provided in paragraph Third and as follows:

(a) The following stipulating parties, or any of them, may use water which they are entitled to extract from Cucamonga Basin in any location whatsoever, namely, San Antonio, Cucamonga, Upland, Old Settlers, and Sunset.

(b) Hermosa, Foothill Irrigation Company and Alta Loma are entitled to export water from Cucamonga Basin only to the extent hereinafter set forth, and none of said parties shall ever export from the Basin more water than said "Export quantity" herein listed for it, to wit:

<u>Party</u>	<u>Export Quantity</u>
HERMOSA	343 Acre Feet
FOOTHILL IRRIGATION COMPANY	483 Acre Feet
ALTA LOMA	51 Acre Feet

and if in any year water used outside the basin which has been extracted or developed from the basin by any of said parties exceeds the "Export Quantity" above listed for such party, the quantity of water which such party shall be entitled to develop or extract from the basin in the ensuing year shall be reduced by an amount equal to such excess.

FIFTH: Within sixty (60) days after the date of this judgment, San Antonio shall, in the event it has not already done so, install, at the following locations, suitable recording and measuring devices, by means of which all spread water passing through such devices may be accurately measured and the quantity of such water recorded. Said locations are as follows:

(1) On 23rd Street at the Northeast corner of Ontario

1 Colony Lot No. 170

2 (2) On 20th Street at the Northwest corner of Ontario
3 Colony Lot No. 282; and

4 (3) On the West line of Ontario Colony Lot No. 301,
5 400 feet North of 19th Street.

6 Such measuring and recording devices shall be of such design and
7 construction as may be agreed upon by and between San Antonio and
8 Cucamonga, or, if they fail to agree, as may be designated by the
9 Chief Engineer of the San Bernardino County Flood Control District,
10 or by the above entitled Court.

11 All imported water which is to be spread upon Cucamonga Basin,
12 whether spread by San Antonio to earn its entitlement under paragraph
13 Second hereof, or is spread after the purchase thereof by the parties
14 hereto other than San Antonio, shall be conducted through said record-
15 ing and measuring devices by San Antonio, unless otherwise agreed in
16 writing by the stipulating parties, including San Antonio, having
17 allocated water equal to at least five-sixths (5/6ths) of the aggre-
18 gate stipulated water, and no water not so conducted through such
19 devices and measured shall be counted as water spread under the terms
20 of such paragraph Second, unless so agreed in writing by such parties.

21 Said devices shall be designed and operated so that they
22 continuously record the amount of water passing therethrough between
23 the start and finish of each spreading season. In case of failure
24 of measuring devices, average of the preceding and succeeding
25 measurements shall be used. Such records shall be open to the inspect
26 ion of all other stipulating parties on reasonable notice.

27 Each stipulating party shall have the right to inspect such
28 recording and measuring devices at any time, and, in the event that
29 the same shall ever be locked, each of the stipulating parties shall
30 be furnished by San Antonio with a key thereto so as to permit in-
31 spection thereof. Further, San Antonio shall grant to the other
32 stipulating parties hereto, insofar as it can do so without being

1 required to obtain the same from others, a non-exclusive right of
2 ingress and egress from the nearest public street to said recording
3 measuring devices. The stipulating parties hereto shall pro-rate the
4 expense of the original installation of said recording measuring
5 devices, and San Antonio shall thereafter operate and maintain and
6 bear the expense of operating and maintaining such devices.

7 SIXTH: As between the stipulating parties only, no extraction
8 of water from Cucamonga Basin by any party in excess of the amount
9 herein provided to be taken by such party, shall be deemed adverse to
10 any other stipulating party, and each stipulating party hereby waives
11 as against each other stipulating party the right to plead any statute
12 of limitations or laches with respect to any extraction of water by
13 such party in excess of such amount.

14 SEVENTH: Except as provided in paragraph Second, if any stip-
15 ulating party in any year shall fail to take or receive from the basin
16 or transport beyond the confines of the basin, the full quantity of
17 water which such party is entitled hereunder to take or receive or
18 transport beyond said confines, as the case may be, such failure shall
19 not entitle such party to take or receive or so transport from the
20 basin in any succeeding year any greater quantity of water than if in
21 each prior year such party had taken, received and so transported
22 from the basin all water which such party was entitled hereunder to so
23 take, receive and transport, and, subject to the provisions of Para-
24 graph Fifteen, such failure shall not affect the rights of other
25 parties to the decree to take the stipulated amounts of water they are
26 entitled to receive by Exhibit 2 herein.

27 Likewise, except as provided in said paragraph Second, as
28 between the stipulating parties, no right adjudged hereunder of any
29 party to thereafter take water from the Basin or to thereafter trans-
30 port such water beyond the confines of the Basin shall be lost,
31 impaired or diminished by any failure to take or so transport from the
32 Basin all or any of the water to which such party is entitled hereunder:
33 unless and only to the extent that for a period of at least fifteen

1 consecutive years such right shall not be exercised.

2 EIGHTH: Each stipulating party shall always maintain records
3 of all extractions of water from the Basin by such party such that it
4 can be determined therefrom for each year what quantity of water was
5 taken from each well, or combination of wells, or other water source
6 within the Basin from which such party received water.

7 Upon written demand of any other stipulating party, the party
8 keeping such records shall, within 30 days after receipt of such
9 demand, supply to the party making such demand or to the person
10 designated by such party in such demand a written statement of the
11 amount of water (in acre feet) so taken from each such well or combin-
12 ation of wells, or other source, for each year after 1957, with
13 respect to which no such statement has previously been supplied.

14 Within six months hereafter as to existing wells, or upon
15 commencement of operation as to wells first hereafter operated, each
16 such well or combination of wells shall be so equipped with measuring
17 devices at the expense of stipulating party who operates the same, as
18 to show the quantity of water used or extracted.

19 Likewise, if any stipulating party hereafter transports water
20 beyond the confines of the Basin, such transporting party shall there-
21 after maintain such measuring box, meter, weir, or other measuring
22 device as will show readily and accurately the quantity of water at
23 the time being transported beyond the confines of the Basin. Measure-
24 ments of the quantity of water being taken at each of said points
25 shall be made by such transporting party at least daily by weir or
26 weekly by meter throughout the entire period water is being taken at
27 such point. A record of such measurements and hours of operation
28 shall always be made and maintained by such party. In case of failure
29 of measuring device, average of the preceding and succeeding measure-
30 ments shall be used.

31 Each stipulating party and any agent of any such party shall
32 at all reasonable hours be entitled to inspect all such meters, boxes,

1 weirs and other measuring devices, and to inspect, check, and copy
2 any record of extractions and measurements and of all data and com-
3 putations pertaining to the same in the possession or under the
4 control of any other stipulating party or parties.

5 NINTH: Every provision of this Judgment in favor of or
6 applying to any party hereto shall also apply to and inure to the
7 benefit of, and also bind each and all of the heirs, legal represent-
8 atives, successors and assigns of such party.

9 TENTH: The maximum quantity of water which any stipulating
10 party shall be entitled to take from the Basin or transport beyond
11 its confines shall not be increased or affected by the future
12 acquisition by such party of additional lands, unless there shall be
13 appurtenant to such lands rights to take water, which rights are
14 in this action adjudged to exist.

15 Nothing in this judgment contained shall prevent any stipul-
16 ating party from selling or otherwise disposing, or from purchasing
17 or otherwise acquiring, any rights to water or to transport the same
18 which may be adjudged to belong to any party to this action; but any
19 such rights so acquired or so disposed shall remain subject to any
20 limitations or restrictions herein expressed. Any transfer of the
21 rights of any party herein shall be in writing, and notice thereof
22 shall be given to San Antonio Water Company and Cucamonga Basin
23 Protective Association, a corporation, whose address is Cucamonga,
24 California, before the transferee may exercise such transferred rights.

25 ELEVENTH: The stipulating parties shall pro-rate the expense
26 incurred after the date of this Judgment in prosecuting this action
27 to Judgment against any other parties to this action.

28 The stipulating parties will unite in opposing any new,
29 wrongful or unlawful taking of water from the Basin hereafter made
30 by any person or corporation other than a stipulating party or
31 parties, and will prorate the expense of making such opposition,
32 including any litigation or engineering expense, provided that;

1 (a) The term "new taking" shall not include any water devel-
2 opment in the Basin hereafter made for the sole purpose of maintain-
3 ing but not increasing any quantity of water now being taken from
4 the Basin by the person who may hereafter make such development.

5 (b) If any stipulating party does not join in prosecuting
6 any future suit to prevent, enjoin or limit any such new, wrongful
7 or unlawful taking, such stipulating party not so joining shall bear
8 pro-rata the expense of such suit (including attorney's fees and
9 engineering expense) only if final judgment is rendered in such
10 suit preventing, enjoining or limiting such taking.

11 TWELFTH: Each stipulating party, and the agents and employees
12 of each such party, is and are hereby perpetually enjoined and re-
13 strained from doing any act or thing in violation of any provision
14 of this judgment, other than paragraph Eleventh hereof.

15 THIRTEENTH: No stipulating party shall be entitled to
16 recover court costs from any other stipulating party.

17 FOURTEENTH: The above entitled action shall continue and may
18 be prosecuted and tried against all defendants therein, other than
19 the stipulating parties; and the stipulating parties shall share
20 the expense of such prosecution pro-rata. The Court will retain
21 jurisdiction to enter modifications of this decree pursuant to
22 stipulations provided for hereunder.

23 FIFTEENTH: In the event that through inadequacy of the
24 supply of water in the Cucamonga Basin, or by reason of adjudication
25 in any subsequent action, the stipulating parties in the aggregate
26 shall be unable to pump and extract from the Cucamonga Basin a
27 quantity of water so great as the aggregate stipulated water as is
28 set forth in Exhibit 2, the stipulating parties shall pro-rate the
29 aggregate quantity of water available in the Basin as long as such
30 inability shall continue.

31 In the event between October 1st of any year and June 15th
32 of the succeeding calendar year, five-sixths of the water users

1 shall agree in writing by a stipulation filed in said action that
2 the supply of water in the Basin is inadequate to safely permit the
3 stipulating parties to pump in such ensuing year the aggregate
4 stipulated water and that the amount of water to be pumped by each
5 stipulating party shall for such succeeding calendar year be limited
6 to a specified percentage (uniform for all) of the allocated water,
7 then for such succeeding calendar year, each stipulating party is
8 hereby enjoined and restrained from pumping or extracting from the
9 Basin more than such percentage of allocated water of such party
10 (subject to the provisions of paragraphs Second and Third hereof).

11 SIXTEENTH: The listing upon Exhibit 2 of any number of
12 acre feet for any party to this action other than a stipulating
13 party, shall not be deemed an admission by any stipulating party
14 that a non-stipulating party is entitled to any water whatsoever
15 from Cucamonga Basin, nor as to the quantity which such non-
16 stipulating party may take from said Basin, if any, but each such
17 figure for any non-stipulating party is listed as a matter of con-
18 venience and as a possible basis of compromise only.

19 SEVENTEENTH: This judgment supersedes and controls all
20 previous agreements and decrees between the stipulating parties, or
21 any of them but only insofar as they are inconsistent herewith.

22 Done in open Court this 25 day of April, 1958.
23
24

25 CARL B. HILLIARD
26 _____

27 Judge
28
29
30
31
32

1
2
3
4 EXHIBIT 1

5 TERRITORY UNDER WHICH LIES THE "CUCAMONGA BASIN"

6 That certain territory in the County of San Bernardino,
7 State of California, which is situated to the South of the Sierra
8 Madre range of mountains and is bounded and described as follows,
9 to wit:

10 Beginning at the base of the hereinbefore men-
11 tioned Sierra Madre Mountains at a point situate
12 9000 feet due North of the Southwest corner of
13 Lot 241, said lot being delineated on Map of
14 Ontario Colony Lands, recorded in the Office of
15 the County Recorder of said County in Book 11
16 of Maps, at page 6 thereof; thence running South
17 to said Southwest corner of said Lot 241; thence
18 running in a general Southeasterly direction to
19 the Southeast corner of Lot 419, said lot being
20 also delineated on said Map of said Ontario Colony
21 Lands; thence continuing in a general Southeasterly
22 direction to a point situate thirteen hundred feet
23 North of the South line and thirteen hundred feet
24 East of the West line of Section 4, Township 1
25 South, Range 7 West, S. B. B. & M., thence running
26 in a general Easterly direction to a point situate
27 on the East line of said Section 4, eighteen hun-
28 dred feet North of the Southeast corner of said
29 Section 4; thence running in a general Northeasterly
30 direction to the Southeast corner of the Southwest
31 quarter of the Northeast quarter of Section 3,
32 Township 1 South, Range 7 West, S. B. B. & M., thence
33 running Northeasterly to a point situate on the North
line of Section 2, Township 1 South, Range 7 West,
S. B. B. & M., fourteen hundred feet East of the West
line of said Section 2; thence running in a general
Northeasterly direction to the base of said mountains,
to a point where the division line between ranges
six and seven, S. B. B. & M. intersects the South
base of said mountains; thence following the meander-
ing line of the South base of said mountains, being
curved northerly for canyons and southerly for ridges,
in a westerly direction to the place of beginning.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
EXHIBIT 1

EXHIBIT 2

STIPULATED WATER

NAME ACRE FEET PER YEAR

San Antonio Water Company	6500	6500
Alta Loma Mutual Water Company	571	600
Armstrong Nurseries		200
Banyan Heights Water Company		625
Carnelian Water Company		600
Citrus Water Company		450
Cucamonga Water Company	6500	6500
Cucamonga Development Company (included under Ioamosa)		None
Foothill Irrigation Company	483	1600
Hedges Well Company		732
Hellman Water Company (included under Ioamosa)		None
Hermosa Water Company	343	600
Ioamosa Water Company		920
Joya Mutual Water Company		390
Old Settlers Water Company	400	400
Rex Mutual Water Company		600
Charles Snyder		114
Sunset Water Company	400	400
Upland Water Company	750	750
Heirs and Devises of Giovanni Vai, deceased		500
Hugh P. Crawford		120
Western Fruit Growers		120
Sapphire Mutual Water Company		None
G. N. Hamilton Ranch, a partnership		None
AGGREGATE STIPULATED WATER		22,721

EXHIBIT 2

114
15,381

1 WALKER, WRIGHT, TYLER & WARD
2 210 W. 7th Street, Suite 631
3 Los Angeles, 14, California,
4 TRinity 8936

5 Attorneys for Plaintiff

6
7
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF SAN BERNARDINO
10

11 SAN ANTONIO WATER COMPANY, a corporation,
12 Plaintiff,

13 vs.

14 FOOTHILL IRRIGATION COMPANY, a corporation;
15 SUNSET WATER COMPANY, a corporation; IOAMOS
16 WATER COMPANY, a corporation; and OLD SETTLERS
17 WATER COMPANY, a corporation; ALTA LOMA MUTUAL
18 WATER COMPANY, a corporation; ARMSTRONG
19 NURSERIES, a corporation; BANYAN HEIGHTS WATER
20 COMPANY, a corporation; CARNELIAN WATER
21 COMPANY, a corporation; CITRUS WATER COMPANY,
22 a corporation; CUCAMONGA DEVELOPMENT COMPANY,
23 a corporation; CUCAMONGA WATER COMPANY, a
24 corporation; HEDGES WELL COMPANY, a corpora-
25 tion; HELLMAN WATER COMPANY, a corporation;
26 HERMOSA WATER COMPANY, a corporation;
27 JOYA MUTUAL WATER COMPANY, a corporation;
28 REX MUTUAL WATER COMPANY, a corporation;
29 SAPPHIRE MUTUAL WATER COMPANY, a corporation;
30 CHARLES SNYDER; UPLAND WATER COMPANY, a
31 corporation; HENRY G. BODKIN and BANK OF
32 AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION,
as Executors of the last will of Giovanni Vai,
deceased; WESTERN FRUIT GROWERS, a corporation;
HUGH P. CRAWFORD; G. N. HAMILTON RANCH, a partner-
ship composed of Arthur Bridge, Helen Bridge, and
Grace W. Burt; JOHN DOE ONE to THIRTY, inclusive,
MARY ROE ONE to THIRTY inclusive, JOHN DOE
COMPANY ONE TO TWENTY inclusive,

Defendants.

No.

STIPULATION

REGARDING

TRIAL AND

JUDGMENT

IT IS HEREBY STIPULATED AND AGREED by and between plaintiff
San Antonio Water Company and the undersigned defendants (said
plaintiff and defendants being herein called "Stipulating parties")

SU
AT
SAN ANTONIO, TEXAS
CLERK
OF
COURT

1 that:

2 FIRST: Each of the undersigned defendants hereby appears in
3 the above entitled action. The allegations of the complaint on
4 file in said action shall be deemed denied by the undersigned
5 defendants, and they shall be and are deemed to have alleged in
6 said action that they own such rights to the waters of Cucamonga
7 Creek and of Cucamonga Basin (mentioned in said judgment) as may
8 be supported by any evidence which may be introduced at the trial
9 of said action.

10 SECOND: At any time after the filing of this stipulation
11 said action may be tried as between the stipulating parties. Said
12 trial may be held without notice if the undersigned counsel for the
13 stipulating parties are present or represented at said trial, and
14 in such case notice of said trial is hereby waived.

15 THIRD: The stipulating parties consent that a Decree in the
16 form which precedes and is attached to this stipulation may be
17 rendered and entered by the Court in said action, in the event
18 the Court finds such judgment proper under the evidence which shall
19 have been introduced.

20 FOURTH: The stipulating parties hereby waive the signing
21 or filing of any Findings of Fact in said action in the event a
22 decree in said form is to be rendered.

23 Dated: April 25th, 1957.

24 SAN ANTONIO WATER COMPANY

25 BY F. B. Buffington, President
26 AND C. E. Adams, Secretary

27 WALKER, WRIGHT, TYLER AND WARD

28 BY William S. Matthews
29 Attorneys for Plaintiff

30 FOOTHILL IRRIGATION COMPANY

31 BY Herman H. Hixon, President
32 AND Frank A. Van Dine, Secretary

1 IOAMOSA WATER COMPANY

2 BY J. F. Green President
3 AND Frank H. Van Fleet Secretary

4 OLD SETTLERS WATER COMPANY

5 BY Harold B. Blatz President
6 AND Frank H. Van Fleet Secretary

7 SUNSET WATER COMPANY

8 BY Herbert H. Hinton President
9 AND Emma Mae Hinton Secretary

10 CUCAMONGA WATER COMPANY

11 BY Leon T. Lucas President
12 AND Clifton Chappell Secretary

13 ALTA LOMA MUTUAL WATER COMPANY

14 BY C. J. Minor President
15 AND Dana L. Merchant Secretary

16 ARMSTRONG NURSERIES, Inc.

17 BY Clayton Armstrong President
18 AND W. D. Co. Secretary

19 BANYAN HEIGHTS WATER COMPANY

20 BY Walter L. H. H. H. President
21 AND Walter L. H. H. H. Secretary

22 CARNELIAN WATER COMPANY

23 BY John C. Belcher President
24 AND Walter L. H. H. H. Secretary

25 CITRUS WATER COMPANY

26 BY Woodrow H. H. President
27 AND Walter L. H. H. H. Secretary

HEDGES WELL COMPANY,

BY Donald C. Blair President

AND Morris D. Smith Secretary

HELLMAN WATER COMPANY

BY G. F. Grass President

AND Frank N. Van Fleet Secretary

HERMOSA WATER COMPANY

BY Frank N. Van Fleet President

AND Frank N. Van Fleet Secretary

JOYA MUTUAL WATER COMPANY

BY Charles A. B. B. President

AND Frank N. Van Fleet Secretary

UPLAND WATER COMPANY

BY W. B. Strong President

AND J. F. Easton Secretary

WESTERN FRUIT GROWERS

BY W. H. S. S. President

AND M. Olin P. S. Secretary

CUCAMONGA DEVELOPMENT COMPANY

BY Robert H. S. President

AND Frank N. Van Fleet Secretary

SAPPHIRE MUTUAL WATER COMPANY

BY H. C. S. President

AND Frank N. Van Fleet Secretary

X Charles Snyder
(Charles Snyder)

X Hugh P. Crawford
(Hugh P. Crawford)

HENRY G. BODKIN and
BANK OF AMERICA NATIONAL TRUST AND
SAVINGS ASSOCIATION,
As Executors of the Last Will of
Giovanni Vai, deceased;

BY [Signature]
AND [Signature]
(Henry G. Bodkin)

G. N. HAMILTON RANCH, a partnership,

BY [Signature]
(Arthur Bridge)

BY [Signature]
(Helen Bridge)

BY [Signature]
(Grace W. Burt)

Partners

REX MUTUAL WATER COMPANY

BY [Signature] President

AND [Signature] Secretary

SUBB & HELLYER

BY [Signature]
Attorneys for Ioamosa, Cucamonga,
Banyan Heights, Joya Mutual, Rex Mutual,
and Sapphire Water Companies, and for
Hedges Well Company and Cucamonga
Development Company.

1 SCOTT S. SLATER, ESQ. (State Bar No. 117317)
2 ROBERT J. SAPERSTEIN, ESQ. (State Bar No. 166051)
3 HATCH AND PARENT, PC
4 21 East Carrillo Street
5 Santa Barbara, CA 93101
6 Telephone: (805) 963-7000

7 Attorneys for Plaintiff,
8 Special Counsel for Southern California Water Company

FILED
LOS ANGELES SUPERIOR

DEC 18 1998

JOHN A. CLARKE, CLERK
[Signature]

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES

11 SOUTHERN CALIFORNIA WATER COMPANY)

12 Plaintiff,)

13 vs.)

14 CITY OF LA VERNE, CITY OF CLAREMONT,)
15 CITY OF POMONA, CITY OF UPLAND,)
16 POMONA COLLEGE, POMONA VALLEY)
17 PROTECTIVE ASSOCIATION, SAN ANTONIO)
18 WATER COMPANY, SIMPSON PAPER)
19 COMPANY, THREE VALLEYS MUNICIPAL)
20 WATER DISTRICT, WEST END)
21 CONSOLIDATED WATER COMPANY, and)
22 DOES 1 through 1,000, Inclusive,)

23 Respondents and Defendants.)

CASE NO. KC029152

Assigned for All
Purposes to Judge
William O. McVittie

Department O

(Complaint Filed, September 28,
1998)

JUDGMENT

24
25 THE DOCUMENT TO WHICH THIS CERTIFICATE IS
26 ATTACHED IS A FULL, TRUE, AND CORRECT COPY
27 OF THE ORIGINAL ON FILE AND OF RECORD IN
28 MY OFFICE.

DEC 18 1998

ATTEST

JOHN A. CLARKE

Executive Officer/Clerk of the
Superior Court of California, County of
Los Angeles

By *[Signature]*, Deputy

MORALES

144876.1:6774.54

TABLE OF CONTENTS

	PAGE
PRELIMINARY FINDINGS	1
A. Complaint	1
B. Answers and Cross-Complaints	2
C. Jurisdiction	2
D. Parties	2
E. Settlement Negotiations	4
1. Importance of Groundwater	4
2. Coordinated Study	4
3. Overdraft	4
a. Native Safe Yield	4
b. Safe Yield	5
c. Groundwater Production	5
F. Stipulation	5
JUDGMENT	6
I. INTRODUCTION	6
A. Definitions	6
1. Base Annual Production Right	6
2. Carryover Rights	6
3. Effective Date	6
4. Fiscal Year	6
5. Four Basins or Four Basins Area	6
6. Groundwater	6
6. Imported Water	6
8. In Lieu Procedures	6
9. Minimal Producers	6
10. Native Groundwater	6
11. Native Safe Yield	7
12. Native Water	7
13. Non-party	7
13. Operating Plan	7
14. Operating Safe Yield	7
15. Overdraft	7
16. Party or Parties	7
17. Physical Solution	8
18. Producer	8
19. Production	8
20. Replacement Water	8
21. Replacement Water Assessment	8
22. Replenishment	8
23. Replenishment Water	8
24. Return Flows	8
25. Safe Yield	8
26. Six Basins or Six Basins Area	8
27. Spreading	8
28. Storage and Recovery	9
29. Storage and Recovery Agreement	9
30. Transfer	9
31. Two Basins or Two Basins Area	9
32. Water Shortage Emergency	9

1	33.	Watermaster	10
2	34	Year	10
3	B.	Exhibits	10
4	Exhibit A:	Six Basin Map	10
5	Exhibit B:	Description of the Six Basins Area	10
6	Exhibit C:	Memorandum of Agreement (Re. PVPA Operations)	10
7	Exhibit D:	Base Annual Production of Parties	10
8	Exhibit E:	Description of Spreading Activities	11
9	Exhibit F:	City of Pomona Storage and Recovery Agreement	11
10	Exhibit G:	Initial Operating Plan	11
11	II.	FINDINGS AND HYDROLOGIC CONDITIONS	11
12	A.	Safe Yield	11
13	B.	Overdraft and Prescriptive Circumstances	11
14	1.	Adversity	11
15	2.	Continuity	11
16	3.	Notice	11
17	C.	High Groundwater Levels	12
18	D.	Water Quality Problems	12
19	III.	DECLARATION OF RIGHTS AND RESPONSIBILITIES	12
20	A.	General Provisions	12
21	1.	Surface Water Rights	12
22	2.	Loss of Priorities	13
23	3.	Limitations on Export	13
24	4.	No Abandonment of Rights	14
25	5.	Pre-Existing Rights	14
26	6.	Physical Solution	14
27	7.	Portability Between the Two Basins and Four Basins Areas	14
28	B.	Rights of the Parties to Produce Groundwater from the Four Basins	15
29	1.	Declaration of Rights	15
30	2.	Carryover Rights	15
31	3.	Transferability of Rights	15
32	4.	Portability of Rights Among the Four Basins	16
33	a.	No Substantial Injury	16
34	b.	Advance Written Notice to Watermaster	16
35	c.	Prior Watermaster Approval	16
36	d.	New Facility Defined	16
37	e.	Procedure for Resolution of Disputes	17
38	5.	Rights to Unused Groundwater Storage Capacity	17
39	6.	Priorities for Use of Groundwater Storage Capacity	17
40	7.	Loss of Stored and Carry-Over Water	17
41	8.	Consideration of Groundwater Levels	18
42	C.	The Parties' Rights to Groundwater and Storage in the Two Basins	18
43	1.	Declaration of Rights	18
44	2.	Storage and Recovery	18
45	3.	Transferability of Rights	19
46	D.	Rights and Responsibilities of PVPA	19
47	1.	Spreading Operations	19

1	2.	Waiver of Claims against PVPA	19
2	E.	Non-Parties	19
3	1.	Minimal Producers	19
	2.	Parties' Rights Versus Non-Parties Reserved	20
4	IV.	REMEDIES	20
5	A.	Injunctions	20
6	1.	Injunction Against Unauthorized Production	20
	2.	Injunction Against Unauthorized Storage	20
	3.	Injunction Against Unauthorized Replenishment	20
7	B.	Continuing Jurisdiction	20
8	1.	Jurisdiction Reserved	20
	2.	Intervention After Judgment	20
9	C.	Reservation of Other Remedies	21
10	1.	Claims By and Against Non-parties	21
	2.	Claims Between Parties Unrelated to the Judgment	21
11	3.	Groundwater Levels	21
12	V.	WATERMASTER	21
	A.	Composition, Voting and Compensation	21
13	B.	Nomination and Appointment Process	22
	C.	Succession	22
14	1.	Partial Succession	23
	2.	Non-Party Successor	23
	3.	Party Successor	23
15	D.	Powers and Duties	24
	E.	Organization and Meetings	24
16	F.	Limits on Assessments	25
17	VI.	PHYSICAL SOLUTION FOR THE SIX BASINS AREA	24
18	A.	General Purposes and Objectives	24
	1.	Physical Solution is Consistent With the Public Interest	25
19	2.	Balance of Equities	25
	3.	Flexibility	25
20	B.	Guidelines for Operation of Four Basins Area	25
21	1.	Replenishment	25
	2.	Storage and Recovery	26
22	3.	Operating Safe Yield	26
	4.	Production	26
	5.	Replacement Water	26
23	a.	Obligation to Provide Replacement Water	27
	b.	In Lieu Procedures	27
24	c.	Replacement Water Assessment	27
25	6.	Development, Maintenance and Implementation of the Operating Plan	27
	7.	Initial Operating Plan	28
26	8.	Annual Review of the Operating Plan	28
	9.	Replenishment	28
27	10.	Storage and Recovery Pursuant to Storage and Recovery Agreements	29
	11.	Special Projects	29
28	12.	Temporary Surplus Groundwater	29

1	C.	GUIDELINES FOR OPERATION OF THE TWO BASINS AREA	30
2	1.	Replenishment	30
3	2.	Storage and Recovery	31
4	3.	Production	31
5	VII.	ASSESSMENTS	31
6	A.	Ground Rules	31
7	1.	Authorization	31
8	2.	Assessment Spread	31
9	3.	Administrative Assessment	32
10	4.	Replacement Water Assessments	32
11	VIII.	DISPUTE RESOLUTION	32
12	A.	Entity for Resolution of Dispute	32
13	B.	Determination Regarding Substantial Injury	32
14	C.	Notice and Hearing	33
15	IX.	ADDITIONAL PROVISIONS	33
16	A.	Procedure	33
17	1.	Designation of Address for Notice and Service	33
18	2.	Service of Documents	34
19	3.	Recordation of Notice	34
20	4.	Judgment Binding on Successors	34
21	5.	Costs	34
22	6.	Review Procedures	34
23	a.	Effective Date of Watermaster Action	34
24	b.	Notice of Motion	35
25	c.	Time for Motion	35
26	d.	De Novo Nature of Proceeding	35
27	e.	Payment of Assessments	35
28	B.	Entry of Judgment	35
		CODES	
		California Constitution	
		Article X, § 2	1, 2, 5, 8
		California Open Meetings Law (Brown Act)	24
		Government Code	
		§ 54950	24
		Public Utilities Code	
		§ 1001	2
		§ 2701	2
		Water Code	
		§ 2529	33
		§ 4999	5, 11, 12

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

- 9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

7
8
9
0
1
2
3
4
5
6
7
8

1 **B. Answers and Cross-Complaints.** On or before November 13, 1998, Plaintiff and
2 Defendants filed a stipulation for entry of judgment.

3 **C. Jurisdiction.** This Court has jurisdiction to enter judgment declaring and adjudicating
4 the Plaintiff's and Defendants' ("the Parties") rights to the reasonable and beneficial use of
5 groundwater by the Parties in the Six Basins Area pursuant to *Article X, Section 2 of the California*
6 *Constitution* and to impose a complete physical solution. All pre-existing rights to groundwater
7 within the Basin held or claimed by any Party (as defined in Section I(A) of the Judgment below) are
8 hereby settled and defined as the production allocations and the other rights and obligations set forth
9 under this judgment ("Judgment"). The respective allocations for each Party are expressly set forth
10 in Exhibit "D."

11 **D. Parties.**

12 1. SCWC is an investor-owned public utility incorporated under the laws of the
13 State of California. (*See Public Utilities Code Section 1001 et seq. and 2701 et seq.*) SCWC produces
14 groundwater from the Six Basins and delivers it for use on land within its certificated service area
15 that predominantly overlies some portion of the Six Basins, and otherwise is within the Counties of
16 Los Angeles and San Bernardino.

17 2. Pomona is a charter city situated in the County of Los Angeles. Pomona
18 produces groundwater from the Six Basins and delivers it for use on land within its incorporated
19 boundaries, on land lying outside its incorporated boundaries within the County of Los Angeles and
20 on City owned lands that predominantly overlie some portion of the Six Basins. Pomona owns and
21 controls land in the Six Basins Area upon which it has historically diverted, for direct use and
22 spreading, surface water from San Antonio Creek and Evey Canyon.

23 3. La Verne is a general law city situated in the County of Los Angeles. La Verne
24 produces groundwater from the Six Basins and delivers it for use on land within its incorporated
25 boundaries, on land lying outside its incorporated boundaries within the County of Los Angeles and
26 on City owned lands that predominantly overlie some portion of the Six Basins.

1 4. Upland is a general law city situated in the County of San Bernardino. Upland
2 produces groundwater from the Six Basins and delivers it for use on land within its incorporate
3 boundaries some portion of which overlie the Six Basins. It possesses a majority of the shares of
4 stock in San Antonio and West End.

5 5. San Antonio is a mutual water corporation incorporated under the laws of the
6 State of California, with its principal place of business in San Bernardino County. San Antonio
7 produces groundwater from the Six Basins and delivers it for use by its shareholders.

8 6. West End is a mutual water corporation, incorporated under the laws of the
9 State of California, with its principal place of business in San Bernardino County. West End
10 produces groundwater from the Six Basins and delivers it for use by its shareholders.

11 7. Claremont is a general law city situated in the County of Los Angeles.
12 Claremont's incorporated boundaries and City owned lands overlie a portion of the Six Basins. The
13 City has executed an agreement with SCWC with respect to its groundwater rights.

14 8. Pomona College is a California corporation, with a principal place of business
15 in the County of Los Angeles. Pomona College owns land and groundwater production facilities tha
16 overlie the Six Basins Area and it has executed operating leases with SCWC regarding these
17 facilities. Pomona College has executed an agreement with SCWC with respect to its groundwater
18 rights.

19 9. Simpson is a Washington corporation, which is doing business in the State of
20 California and the County of Los Angeles. Simpson produces groundwater from the Six Basins for
21 its own use and also purchases water service from Pomona.

22 10. PVPA is a California corporation, operating on a non-profit basis for the mutual
23 benefit of its members with its principal place of business in the County of Los Angeles.
24 Shareholders of PVPA include Pomona, Pomona College, San Antonio, SCWC, Simpson, Upland
25 and West End. PVPA owns the primary spreading grounds and recharge facilities for the Six Basins
26 and owns other lands which also overlie the Six Basins. PVPA has undertaken ongoing studies and
27 evaluation of groundwater conditions in the Six Basins Area.

28

1 11. TVMWD is a California Municipal Water District formed pursuant to the
2 provisions of the municipal water district act and with the power to acquire, control, distribute, store,
3 and spread water for beneficial purposes within its boundaries.

4 E. Settlement Negotiations.

5 1. Importance of Groundwater. Groundwater is an important water supply
6 source for businesses, individuals and public agencies that overlie or extract groundwater from the
7 Six Basins. The Parties have a mutual and collective interest in the efficient and reasonable use of
8 groundwater and the coordinated management of water resources to ensure the prudent use of the
9 resource. The Parties have a further collective interest in furthering the efficient and reasonable use
10 of groundwater and the coordinated and comprehensive management of water resources to ensure that
11 the common resource may be sustained and enhanced.

12 2. Coordinated Study. PVPA has conducted and continues to conduct technical
13 studies of the Six Basins and has developed groundwater models of the Six Basins. To achieve the
14 goals of coordinated basin management and to ensure and promote the sustainable and enhanced use
15 of the groundwater resources of the Six Basins, the Parties joined in a collaborative process, reviewed
16 prior groundwater production reports and hydrologic studies, other historical data and engaged in new
17 technical studies to supplement the previous work of PVPA. Substantial engineering, hydrologic and
18 geologic data not previously known have been collected and jointly analyzed and verified by the
19 Parties. Included therein are estimates of production and reported production from the Six Basins
20 and further refinement of PVPA's groundwater models. The results of these efforts provide the
21 technical foundation for this Judgment.

22 3. Overdraft.

23 a. Native Safe Yield. The Native Safe Yield (as defined in Judgment,
24 Section I(A), below) of the Six Basins Area has historically been augmented generally by the
25 spreading activities conducted by PVPA, Pomona and La Verne and from return flows from water
26 imported to the Six Basins Area through TVMWD. There is no precise estimate of the Native Safe
27 Yield; however, without augmentation comprised of the substantial spreading operations conducted
28

1 by PVPA and others, and the return flows from imported water, the amount of groundwater
2 comprising the Native Safe Yield is substantially less than the Safe Yield which is allocated to the
3 parties pursuant to this Judgment.

4 **b. Safe Yield.** Safe Yield (as defined in Judgment, Section I(A), below)
5 for all groundwater supplies within the Six Basins, including the benefits of historic augmentation
6 is nineteen thousand three hundred (19,300) acre feet per year.

7 **c. Groundwater Production.** Reports filed with the State of California
8 pursuant to *Water Code Section 4999 et seq.*, production records reported to PVPA by its members,
9 and independent verification by the Parties all demonstrate that the cumulative groundwater
10 production of the Parties from the Six Basins Area annually has been greater than twenty thousand
11 (20,000) acre feet in each of the five years immediately preceding the filing of this action. Therefore,
12 groundwater production has exceeded the available Safe Yield and *a fortiori* the Native Safe Yield
13 in each of the last five years.

14 **F. Stipulation.** The Parties, whose production from the Six Basins cumulatively comprise
15 essentially all of the groundwater production in the Six Basins Area, which have engaged in long
16 standing groundwater replenishment activities or otherwise have an interest in the efficient and
17 coordinated management of groundwater, have stipulated to the entry of this Judgment. Each of the
18 Parties stipulate that this Judgment is a physical solution (as defined in Judgment, Section I(A),
19 below) which provides due consideration to the environment, the respective groundwater rights of
20 the Parties, and that this Judgment will not cause substantial material injury to any Party under these
21 circumstances of a lengthy period of overdraft and the competing claims to groundwater. The Parties
22 further stipulate that the Judgment is a fair and equitable allocation of water in accordance with the
23 provisions of *Article X, Section 2 of the California Constitution*.

24 //

25 //

26 //

27 //

28

JUDGMENT

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

I. INTRODUCTION

A. Definitions.

1. **"Base Annual Production Right"** means the average annual production , in acre-feet, for each Party for the twelve year period beginning on January 1 of 1985 and ending on December 31 of 1996 as set forth in Exhibit "D".
2. **"Carryover Rights"** means the maximum percentage of a Party's annual allocation of Operating Safe Yield production of which may be deferred until the following Year free of any Replacement Water Assessment.
3. **"Effective Date"** means January 1, 1999.
4. **"Four Basins or Four Basins Area"** means the following groundwater basins and the area overlying them: Canyon, Upper Claremont Heights, Lower Claremont Heights and Pomona as shown on Exhibit "A" and further described in Exhibit "B".
5. **"Groundwater"** means all water beneath the ground surface and contained within any one of the Six Basins except as provided in Article IIIA Section 1.
6. **"Imported Water"** means water that is not naturally tributary to the Six Basins Area and which is delivered to the Six Basins Area.
7. **"In Lieu Procedures"** means a method of either providing Replacement Water or water to be stored under a Storage and Recovery Agreement whereby a Party receives direct deliveries of Imported Water or water other than Replenishment Water in exchange for foregoing the production of an equivalent amount of such Party's share of the Operating Safe Yield.
8. **"Minimal Producers"** means any producer whose production is less than 25 acre feet each Year.
9. **"Native Groundwater"** means groundwater within the Six Basins Area that originates from the deep percolation of rainfall, natural stream flow or subsurface inflow, and

1 expressly excluding groundwater which originates from (a) the Parties' replenishment
2 activities and (b) return flows from both imported water and the Parties' replenishment
3 activities, and water described in Article IIIA Section 1.

4 10. "Native Safe Yield" means the amount of Native Groundwater, in acre feet, that can
5 be extracted from the Six Basins Area on an annual basis without causing an undesirable
6 result. Expressed as a formula: Native Safe Annual Yield = Annually Available Groundwater
7 - (Replenishment Water + return flows from Imported Water and Replenishment Water).

8 11. "Native Water" means water which is naturally tributary to the Six Basins Area.

9 12. "Non-party" means any person or entity which is not a party to this Judgment.

10 13. "Operating Plan" means the plan, developed by Watermaster (as defined in
11 Judgment, Article V below) for the Four Basins Area, by which the purpose and objectives
12 of the Physical Solution will be implemented and realized.

13 14. "Operating Safe Yield" means the amount of groundwater, in acre feet, which the
14 Watermaster shall determine can be produced from the Four Basins Area by the Parties during
15 any single year, free of any replacement obligation under the Physical Solution herein.
16 Because of the benefits created by coordinated management of groundwater provided by the
17 Physical Solution, the Operating Safe Yield set by Watermaster may exceed the Safe Yield
18 that would otherwise be available for production by the Parties. The Two Basins Area is
19 excluded from the Operating Safe Yield allocated pursuant to this Judgment with its annual
20 Safe Yield being equivalent to the amount of groundwater La Verne may reasonably produce
21 from the Two Basins Area on an annual basis without causing substantial injury to any other
22 Party.

23 15. "Overdraft" means a condition wherein the total annual production from a
24 groundwater basin exceeds the Safe Yield.

25 16. "Party or Parties" means any person(s) or entity(ies) named in this action, who
26 has/have intervened in this case or has/have become subject to this Judgment through
27 succession, stipulation, transfer, default, trial or otherwise.

28

1 17. **"Physical Solution"** means the efficient and equitable coordinated management of
2 groundwater within the Six Basins Area to maximize the reasonable and beneficial use of
3 groundwater resources in a manner that is consistent with the public interest, *Article X,*
4 *Section 2 of the California Constitution,* and with due regard for the environment.

5 18. **"Producer"** means a person, firm, association, organization, joint venture, partner-
6 ship, business, trust, corporation or public entity who, or which, produces or has a right to
7 produce groundwater from the Six Basins Area.

8 19. **"Production"** means the process of pumping groundwater; also, the gross amount
9 of groundwater pumped.

10 20. **"Replacement Water"** means imported water or water other than Replenishment
11 Water supplied through in-lieu procedures that is acquired by the Watermaster or provided
12 by a Party to replace production by such Party in excess of the amount of its share of the
13 Operating Safe Yield, Carry-Over Rights and Storage and Recovery rights authorized by
14 Watermaster.

15 21. **"Replacement Water Assessment"** means an assessment levied by Watermaster
16 pursuant to Article XII A, Section 4 of this Judgment.

17 22. **"Replenishment"** means a program to spread or inject Replenishment Water into
18 the Six Basins Area. A description of the current replenishment programs is attached hereto
19 as Exhibit "E."

20 23. **"Replenishment Water"** means native water which augments the Native Safe Yield
21 and thereby comprises a portion of the Operating Safe Yield pursuant to a historical
22 replenishment program as described in Article VIB, Section 9 and Exhibit E.

23 24. **"Return Flows"** means water which percolates, infiltrates or seeps into the Six
24 Basins after having been previously applied to some end use by one of the Parties or any user
25 of water.

26 25. **"Safe Yield"** means the amount of groundwater, including Replenishment and return
27 flows from Imported Water, that can be reasonably produced from the combined Two Basins
28

1 and the Four Basins Areas on an annual basis without causing an undesirable result, including
2 but not limited to land subsidence, water quality degradation, and harm from high
3 groundwater levels, i.e. 19,300 acre feet per year.

4 26. **"Six Basins or Six Basins Area"** means the Four Basins Area plus the Two Basins
5 Area, as shown on Exhibit "A" and further described in Exhibit "B."

6 27. **"Spreading"** means a method of groundwater recharge whereby water is placed in
7 permeable impoundments and allowed to percolate into a basin.

8 28. **"Storage and Recovery"** means a program administered under an agreement
9 between the Watermaster and a Party to store water either directly by sinking, spreading or
10 injecting or by in-lieu procedures, into the Four Basins, and subsequently recovering such
11 water without regard to the limitations imposed by the Party's Base Annual Production Right.

12 29. **"Storage and Recovery Agreement"** means an agreement between Watermaster and
13 a Party for Storage and Recovery of water by such Party. An acceptable pre-approved
14 Storage and Recovery Agreement between Watermaster and Pomona is listed on Exhibit "F."

15 30. **"Transfer"** means temporary or permanent assignment, sale, contract or lease of all,
16 Party's Base Annual Production Right and its associated percentage of the Safe Yield, Carry-
17 Over Rights or rights to recover water stored under a Storage and Recover Agreement to any
18 other Party or a person that becomes a Party. A lease shall not be considered a "permanent
19 transfer" unless both the Lessee and Lessor jointly agree to such characterization.

20 31. **"Two Basins or Two Basins Area"** means the Live Oak and Ganesha Basins and
21 the areas overlying them, as shown on Exhibit "A" and further described in Exhibit "B."

22 32. **"Water Shortage Emergency"** means the substantial impairment, which cannot be
23 promptly mitigated, of the ability of the Parties to provide sufficient water for human
24 consumption, sanitation and fire protection because of: (a) a sudden occurrence such as
25 storm, flood, fire, unexpected equipment outage; or (b) an extended period of drought.

26 33. **"Watermaster"** means the committee with the powers and duties defined in Article
27 V of this Judgment.
28

1 34. **"Year"** means a calendar year.

2 B. **Exhibits.** Each exhibit is expressly incorporated herein and made part of this
3 Judgment.

4 Exhibit A: Six Basin Map

5 Exhibit B: General Description of the Six Basins Area

6 Exhibit C: Memorandum of Agreement between Watermaster and PVPA

7 Exhibit D: Base Annual Production Rights of Parties

8 Exhibit E: Description of Replenishment Programs

9 Exhibit F: City of Pomona Storage and Recovery Agreement

10 Exhibit G: Initial Operating Plan

11 **II. FINDINGS AND HYDROLOGIC CONDITIONS**

12 A. **Safe Yield.** Prior to the imposition of this Physical Solution, the Safe Yield of the Six
13 Basins is historically found to be 19,300 acre feet per year.

14 B. **Overdraft and Prescriptive Circumstances.** For a period in excess of five
15 consecutive Years prior to the filing of the complaint herein, the Native Safe Yield and the Safe Yield
16 have been exceeded by the aggregate Production therefrom and the Six Basins have been in a
17 continuous state of Overdraft. The court finds that the Production constituting such Overdraft has
18 been open, notorious, continuous, adverse, hostile, and under claim of right. The court further finds
19 that the groundwater Production has exceeded the Native Safe Yield and the Safe Yield in each of
20 the last five years and thus all the required elements necessary to establish prescription have been
21 satisfied.

22 1. **Adversity.** The Native Safe Yield of the Six Basins Area has been continuously
23 exceeded for decades. It is only through the ongoing Replenishment undertaken by PVPA, Pomona
24 and La Verne coupled with the availability of and return flows from Imported Water that a further
25 decline in water levels has been averted. An unmanaged downward decline in water levels is known
26 to have severe adverse impacts on the rights of groundwater producers and groundwater quality, to
27 cause land subsidence and to cause increased pump-lifts. Moreover, the Court finds that presently
28

1 estimated Safe Yield of 19,300 acre feet, with the full benefit of the Replenishment carried on by the
2 Parties has been exceeded and if Production is not managed pursuant to this Physical Solution, severe
3 adverse impacts will result.

4 2. Continuity. The Native Safe Yield has been continuously exceeded for at least two
5 decades. For each of the last five Years the Safe Yield has been exceeded. The Court finds that
6 cumulative total Production from the Six Basins Area for the Years 1993 through 1997 is as follows:

7	1993	21,020 acre feet
8	1994	20,313 acre feet
9	1995	22,959 acre feet
10	1996	23,584 acre feet
11	1997	21,902 acre feet

12 3. Notice. Each of the Parties with a Base Annual Production Right, or their agents, have
13 filed groundwater production reports with the State Department of Water Resources pursuant to
14 *Water Code Section 4999*. These reports are public records and are available for inspection by any
15 member of the public. SCWC is an investor-owned public utility subject to regulation by the
16 California Public Utilities Commission (PUC). Its records, reports and filings with the PUC regularly
17 include information regarding the wells used and groundwater produced from the Six Basins Area.
18 The PUC has held publicly noticed rate hearings which have been attended by the public and
19 representatives from Claremont. Pomona, La Verne and Upland are all public entities and their
20 groundwater production information are public records and open to public inspection upon reasonable
21 notice. PVPA has frequently published reports which indicate the nature of its Replenishment and
22 the volume of groundwater produced in the Six Basins Area. At least two settlement agreements
23 have been entered between certain Parties on matters related to the adverse impacts of increased
24 groundwater production. Both of these agreements were approved by a public entity and are public
25 records. Moreover, the negotiations leading up to the entry of this Judgment were open to all persons
26 claiming the right to produce groundwater by virtue of their owning overlying land or having
27 corporate boundaries overlying the Six Basins Area. Regular meetings concerning these negotiatic
28

1 have been held at the headquarters of TVMWD, a public agency, and were personally attended by
2 representatives from each of the Parties. These meetings have taken place at regular intervals for
3 more than twelve consecutive months and the contents of this Judgment and the status of groundwater
4 conditions in the Six Basins Area has remained readily available. Accordingly, the Court finds that
5 all persons claiming the right to produce had actual notice, constructive notice or could have easily
6 determined upon reasonable diligence that the Six Basins Area was in Overdraft and of each Party's
7 claim to groundwater. The circumstances of such Overdraft and water use are such that each of the
8 Parties either: (i) had actual knowledge of such circumstances; or (ii) should have discovered such
9 circumstances upon the exercise of reasonable diligence or (iii) received constructive notice of the
10 adverse nature of such aggregate production through the public record filings with the State of
11 California pursuant to *Water Code Section 4999* and through the various reports published by the
12 Parties.

13 **C. High Groundwater Levels.** There are cienegas and springs in the Four Basins Area
14 and there is a potential for groundwater to rise to the surface regardless of the replenishment,
15 replacement or storage operations of the Watermaster and carried out by the Parties. Periodically,
16 though not in the past twelve years, high groundwater levels have constituted an important causative
17 factor, in creating damage in the Four Basins Area.

18 **D. Water Quality Problems.** Some of the Six Basins have experienced problems of high
19 concentrations of nitrates and volatile organic compounds (VOC's) in groundwater. Potential sources
20 of the nitrate are historical agricultural practices and individual wastewater disposal systems, most
21 of which have been abandoned. The Two Basins Area and some of the Four Basins Area have been
22 adversely impacted by high concentrations of nitrates and VOC's and may also require remediation.

23 **III. DECLARATION OF RIGHTS AND RESPONSIBILITIES**

24 **A. General Provisions.**

25 **1. Surface Water Rights.** Pomona and San Antonio have prior and paramount pre-
26 1914 water rights, superior to the rights of any other party, to the surface water and supporting
27
28

1 subsurface flows historically and presently diverted therefrom in San Antonio and Evey Canyon,
2 except as provided in Article VIB Section 9 and as referenced in Article IIIA Section 1d.

3 a. Historically, Pomona and San Antonio have diverted, and presently are
4 diverting, surface waters and supporting subsurface flows from San Antonio Canyon.

5 b. Historically, Pomona has diverted, and presently is diverting, surface water
6 and supporting subsurface flows from Evey Canyon.

7 c. Pomona and San Antonio are under no obligation to spread such waters.

8 d. Surface waters and supporting subsurface flows diverted in San Antonio and
9 Evey Canyons at existing diversion locations are excluded from (i) the operation of this Judgment
10 and (ii) the determination of Operating Safe Yield, except to the extent of the portion of such waters
11 which are spread by Pomona at its Pedley Treatment Plant, which portion is governed by the
12 provisions of Article VIB, Section 9.

13 e. The diversion and the use of surface waters and supporting subsurface flows
14 shall not be subject to this Judgment.

15 f. The above-referenced surface waters and supporting subsurface flows shall
16 not be subject to allocation among the Parties pursuant to this Judgment.

17 g. Surface waters and supporting subsurface flows may be used by Pomona and
18 San Antonio to satisfy Replacement Water obligations as provided in Article VIB, Section 5.

19 2. **Loss of Priorities.** By reason of the long continued overdraft in the Six Basins, and
20 in light of the complexity of determining appropriative priorities and the need for conserving and
21 making maximum beneficial use of the water resources of the State, each and all of the Parties listed
22 in Exhibit "D" are estopped and barred from asserting special priorities or preferences *inter se* to
23 groundwater except as expressly provided herein. All the Parties' rights to groundwater are
24 accordingly deemed and considered to be of equal priority unless otherwise expressly stated herein.

25 3. **Limitations on Export.** Other than the limitation on Pomona's use of 109 acre feet
26 as further described in Exhibit "D", any Party's share of the Operating Safe Yield, including
27 Carryover Rights and Transfers, may be produced and exported for use outside the Six Basins Area
28

1 However, groundwater stored and recovered pursuant to a Storage and Recovery Agreement may be
2 produced and exported only in accordance with the terms and conditions of the Storage and Recovery
3 Agreement.

4 4. **No Abandonment of Rights.** It is in the interest of reasonable beneficial use of the
5 Six Basins Area and its water supply, that no Party be encouraged to take and use more water in any
6 Year than is actually required. Failure to produce all of the water to which a Party is entitled
7 hereunder shall, in and of itself, not be deemed to be, or constitute an abandonment of such Party's
8 right, in whole or in part.

9 5. **Pre-Existing Rights.** This Judgment controls each Party's rights to the Production,
10 Replenishment, Storage and Recovery of groundwater and expressly supersedes other rights, claims
11 or defenses arising from agreement, operation of law, prior use or a prior judgment to the extent that
12 they are inconsistent with this Judgment. However, nothing in this Judgment shall alter or affect any
13 rights or remedies that any Party may have under any contract or agreement with any other Party on
14 matters which are not inconsistent with or are unrelated to the provisions of this Judgment or as
15 provided in Article IVC herein.

16 6. **Physical Solution.** This Judgment represents a total and complete Physical Solution
17 for the Six Basins Area and all basins included therein. Although prior hydrologic and physical
18 conditions limited the Safe Yield to 19,300 acre feet per year, through the coordinated and equitable
19 management of the Four Basins and Two Basins Areas provided under this Judgment, an Operating
20 Safe Yield, Operating Plan and Base Annual Production Rights shall be independently established
21 for the Four Basins Area. However, La Verne shall be entitled to produce groundwater from the Two
22 Basins Area in addition to its equitable share of the Four Basins Operating Safe Yield, as provided
23 in accordance with the terms of this Judgment.

24 7. **Portability Between the Two Basins and Four Basins Areas.** A Party's right to
25 produce, store or recover groundwater accruing under this Judgment in the Four Basins Area may not
26 be transferred, exchanged or exercised in the Two Basins Area. A Party's right to produce, store or
27
28

1 recover groundwater accruing under this Judgment in the Two Basins Area may not be transferred,
2 exchanged or exercised in the Four Basins Area.

3 **B. Rights of the Parties to Produce Groundwater from the Four Basins.**

4 1. **Declaration of Rights.** The Parties listed in Exhibit "D" are the owners of
5 appropriative rights, including rights by prescription, and exercised and unexercised overlying rights
6 of equal priority, and each Party shall be entitled to produce groundwater under the Physical Solution
7 and to share in the Operating Safe Yield of the Four Basins according to the percentages set forth in
8 Exhibit "D" as Base Annual Production Rights in a manner consistent with the provisions of this
9 Judgment.

10 2. **Carryover Rights.** Any Party that produces less than its share of the Operating Safe
11 Yield in any Year shall have the right to carry the unproduced portion forward to be produced in the
12 following year subject to the following limitations: (a) the first water produced in any Year shall be
13 deemed to be an exercise of any Carryover Right; (b) a Party's Carryover Right cannot exceed 25
14 (twenty-five) per cent of such Party's share of the current Operating Safe Yield for the prior Year;
15 and (c) Carryover Rights may be lost in the event replenishment is discontinued or curtailed a.
16 provided below in Article IIIB, Section 7.

17 3. **Transferability of Rights.** Subject to the limitations set forth in his Judgment, a Base
18 Annual Production Right and its associated percentage of the Operating Safe Yield, as well as any
19 Carryover Rights and water stored under a Storage and Recovery Agreement, may be transferred, in
20 whole or in part, among existing Parties or to any other person that becomes a Party on either a
21 temporary or permanent basis provided that no Party is substantially injured by the Transfer. Pro-
22 duction pursuant to any such Transfer shall be subject to the limitations on carryover and portability
23 set forth in Article IIIB, Section 4. Any such Transfer shall become effective upon being recorded
24 with Watermaster. Watermaster shall revise Exhibit "D" annually, to reflect any permanent
25 Transfers. The permanent Transfer of any Party's full Base Annual Production Right shall require
26 Watermaster approval. Upon Watermaster approval the permanent Transfer of a Party's full Base
27 Annual Production Right may require an adjustment in the Party representatives to the Watermas'
28

1 and the number of votes of the Party's representatives as provided in Article V. Notwithstanding the
2 provision of this Article IIIB, Section 3, Pomona shall not be entitled to Transfer 109 acre feet of its
3 Base Annual Production Right and its associated percentage of Operating Safe Yield.

4 **4. Portability of Rights Among the Four Basins.** Any Party with a Base Annual
5 Production Right, shall have the right to produce its share of the Operating Safe Yield of the Four
6 Basins, including any Carryover Rights or Transfers, from any or all of the Four Basins, subject to
7 the following conditions.

8 **a. No Substantial Injury.** Any groundwater production from a "new" location
9 shall not cause substantial injury to another Party.

10 **b. Advance Written Notice to Watermaster.** Any Party that intends to
11 undertake any of the following actions shall provide thirty (30) days' advance written notice to the
12 Watermaster: (i) acquire, construct or operate a "new" groundwater production facility in any one
13 of the Four Basins in which it is then producing groundwater; (ii) change the point of extraction from
14 an existing groundwater production facility to a "new" groundwater production facility where the old
15 and the new groundwater production facilities are both within the Canyon or Upper Claremont
16 Heights or Lower Claremont Heights Basins; (iii) change the point of extraction from an existing
17 groundwater production facility on one side of the Indian Hill Fault to a "new" facility on the other
18 side of the Indian Hill Fault.

19 **c. Prior Watermaster Approval.** Any Party that changes the point of extraction
20 from an existing groundwater production facility on one side of the Indian Hill Fault to a "new"
21 facility located on the other side of the Indian Hill Fault and increases the cumulative rate of annual
22 extraction therefrom by more than 2,000 acre feet per year shall be required to obtain the prior written
23 approval of the Watermaster.

24 **d. New Facility Defined.** "New" as used in this Section 4 means either (i) an
25 increase or enlargement in the pre-existing design capacity of a groundwater production facility or
26 (ii) a movement in the location of a groundwater extraction facility by more than three hundred (300)
27 feet or from one legal parcel to another legal parcel.

28

1 e. **Procedure for Resolution of Disputes.** The Watermaster shall make all
2 necessary determinations and resolve all disputes arising under this Article IIIB, Section 4 in
3 accordance with the provisions of Article VIII.

4 5. **Rights to Unused Groundwater Storage Capacity.** From time to time there may
5 exist in the Four Basins, unused storage capacity. Parties holding Base Annual Production Rights
6 pursuant to this Judgment and TVMWD for the sole purpose of storing Imported Water, shall have
7 the exclusive rights to use such storage capacity, and subject to the complete discretion of the
8 Watermaster, may sink, spread or inject water into the Four Basins Area pursuant to a Storage and
9 Recovery Agreement.

10 6. **Priorities for Use of Groundwater Storage Capacity.** In directing spreading and
11 controlling the use of groundwater storage capacity, the Watermaster shall give first priority to
12 Replenishment Water; second priority to Carryover Rights; third priority to Storage and Recovery
13 of water which is naturally tributary to the Six Basins Area; fourth priority to Storage and Recovery
14 of Imported Water, and fifth priority to Storage and Recovery of other water.

15 7. **Loss of Stored and Carryover Water.** After providing notice and opportunity to be
16 heard to any affected Party pursuant to Article IXA, if the Watermaster reasonably determines that
17 Replenishment had to be terminated or curtailed in any year, or that Replenishment Water was
18 rejected because of insufficient storage capacity, some or all of a Party's unproduced Carryover
19 Rights or Storage and Recovery rights may be deemed lost. The amount of water subject to loss shall
20 be equal to that quantity of Replenishment Water which was curtailed or rejected solely because of
21 insufficient storage capacity in the Four Basins.

22 The burden of a determination by Watermaster that rejected recharge has occurred and that
23 there shall be a loss of stored and Carryover water, shall be shared proportionately by each Party to
24 the extent the quantity of water held by each Party at the time of the loss bears to the total quantity
25 of water within each of the classification. Any losses shall be charged first to the storage of other
26 water, then to the storage of Imported Water, then to the storage of Native Water, then to Carryover
27 Water as expressly set forth below.

28

- a. Highest priority shall be given to Replenishment Water.
- b. Second priority against loss shall be given to Carryover Water.
- c. Third priority against loss shall be given to storage of Native Water.
- d. Fourth priority against loss shall be given to storage of Imported Water.
- e. Fifth priority against loss shall be given to storage of other water.

8. **Consideration of Groundwater Levels.** Watermaster shall make every reasonable effort to establish water operations limits so that the spreading of Replenishment or Replacement water, groundwater storage pursuant to a Storage and Recovery Agreement, or the determination of Operating Safe Yield shall not cause high groundwater levels that result in material damage to overlying property (not including sand and gravel excavations or operations) or cause groundwater to surface above the undisturbed natural terrain.

C. **The Parties' Rights to Groundwater and Storage in the Two Basins.**

1. **Declaration of Rights.** In recognition of the remediation efforts that are likely to be necessary to maximize groundwater production from the Two Basins; because of the detected high nitrate concentrations and in recognition that La Verne is uniquely situated to remedy these water quality conditions and exploit future opportunities; because of the minimal hydrologic communication between the Four Basins and Two Basins, and in furtherance of a complete and total physical solution for the Six Basins Area, La Verne shall have the right to produce as much groundwater as it may reasonably withdraw from the Two Basins Area on an annual basis so long as it does not substantially injure the rights of any other Party.

2. **Storage and Recovery.** La Verne has the sole right to use available storage capacity in the Two Basins in its complete discretion for the Storage and Recovery of groundwater so long as it does not cause substantial injury to any other Party. La Verne shall not be required to obtain a Storage and Recovery Agreement from the Watermaster for Storage and Recovery programs carried out within the Two Basins Area provided that (i) such production or use of storage capacity shall not cause substantial injury to any other Party and (ii) La Verne provides 60 (sixty) days' advance written notice to Watermaster before initiating such a Storage and Recovery program.

1 3. **Transferability of Rights.** Subject to the limitations set forth in Article III A,
2 Section 7, La Verne's right to produce groundwater from the Two Basins Area may be transferred.
3 in whole or in part, among existing Parties or to any other person that becomes a Party, on either a
4 temporary or permanent basis provided that no Party is substantially injured by the Transfer. The
5 permanent Transfer of the right to produce groundwater from the Two Basins Area shall not be
6 effective until approved by Watermaster.

7 D. **Rights and Responsibilities of PVPA.**

8 1. **Spreading Operations.** PVPA and the other Parties have negotiated a Supplemental
9 Memorandum of Agreement, attached hereto as Exhibit "C". This Supplemental Memorandum of
10 Agreement and all modifications or amendments thereto shall include a provision for Watermaster's
11 indemnity of PVPA for all Replenishment activities undertaken by PVPA at the direction of the
12 Watermaster. Within sixty (60) days of entry of this Judgment, Watermaster and PVPA shall execute
13 the Agreement. Upon execution, the Agreement shall become part of the Physical Solution. PVPA
14 shall not be required to execute a Storage and Recovery Agreement with Watermaster for its
15 Replenishment activities carried out under the direction of the Watermaster. The Spreading
16 operations conducted by PVPA may result in incidental Replenishment to the Two Basins Area and
17 none of the Parties have a right to object thereto. This Replenishment is authorized under the
18 Judgment.

19 2. **Waiver of Claims Against PVPA.** The Parties expressly waive any and all claims
20 against PVPA arising from facts, conditions or occurrences in existence before the Effective Date and
21 arising from PVPA's spreading operations including but not limited to water quality degradation,
22 subsurface infiltration, high groundwater or groundwater Overdraft within the Six Basins Area.

23 E. **Non-parties.**

24 1. **Minimal Producers.** Minimal producers are not bound or affected by this Judgment.
25 No person may produce twenty-five acre feet or more in any Year without becoming a Party.
26
27
28

2. **Parties' Rights Versus Non-parties Reserved.** The Parties expressly reserve all rights, without limitation, concerning any and all claims raised by persons not a Party to this Judgment as provided in Article IV C Section 1.

IV. REMEDIES

A. **Injunctions.**

1. **Injunction Against Unauthorized Production.** Each and every Party, its officers, agents, employees, successors and assigns is enjoined and restrained from producing water from the Six Basins except as authorized herein.

2. **Injunction Against Unauthorized Storage.** Each and every Party, its officers, agents, employees, successors and assigns is enjoined and restrained from storing water in the Six Basin Area except as authorized herein.

3. **Injunction Against Unauthorized Replenishment.** Each and every Party, its officers, agents, employees, successors and assigns is enjoined and restrained from replenishing water in the Six Basin Area except as authorized herein.

B. **Continuing Jurisdiction**

1. **Jurisdiction Reserved.** Full jurisdiction, power and authority are retained by and reserved to the Court upon the application of any Party, by a motion noticed in accordance with the review procedures of Article XIA, Section 6 hereof, to make such further or supplemental order or directions as may be necessary or appropriate for interpretation, enforcement or implementation of this Judgment, and to modify, amend or amplify any of the provisions of this Judgment or to add to the provisions thereof consistent with the rights herein decreed; provided that nothing in this paragraph shall authorize a reduction of the Base Annual Production Right of any Party except pursuant to a Transfer.

2. **Intervention After Judgment.** Any Non-party who proposes to produce Groundwater from the Six Basins Area in an amount equal to or greater than 25 acre feet per Year, may seek to become a Party to this Judgment through (a) a stipulation for intervention entered into with Watermaster or (b) any Party or Watermaster filing a complaint against the Non-party requesting

1 that the Non-party be joined in and bound by this Judgment. Watermaster may execute said Stipu-
2 lation on behalf of the other Parties herein, but such stipulation shall not preclude a Party fro:
3 opposing such intervention at the time of the Court hearing thereon. A stipulation for intervention
4 must thereupon be filed with the Court, which will consider an order confirming said intervention
5 following thirty (30) days' notice to the Parties. Thereafter, if approved by the Court, such intervenor
6 shall be a Party bound by this Judgment and entitled to the rights and privileges accorded under the
7 Physical Solution herein, including a Base Annual Production Right in an amount equal to its average
8 annual production in the twelve-year period beginning on January 1, of 1985 and ending on
9 December 31, 1996, or any Base Annual Production Right it may obtain by a transfer.

10 **C. Reservation of Other Remedies.**

11 **1. Claims By and Against Non-parties.** Nothing in this Judgment shall expand or
12 restrict the rights, remedies or defenses available to any Party in raising or defending against claims
13 made by any Non-party. Any Party shall have the right to initiate an action against any Non-party
14 to enforce or compel compliance with the provisions of this Judgment.

15 **2. Claims Between Parties on Matters Unrelated to the Judgment.** Nothing in this
16 Judgment shall either expand or restrict the rights or remedies of the Parties concerning subject
17 matter which is unrelated to the quantity and quality of groundwater allocated and equitably managed
18 pursuant to this Judgment other than as provided in Article IIIA, Section 1.

19 **3. Groundwater Levels.** Except as expressly provided herein, nothing in this Judgment
20 shall either expand or restrict the rights or remedies at law that any Party may have against any other
21 Party for money damages to real or personal property resulting from high groundwater or defenses
22 thereto for events or occurrences after the Effective Date.

23 **V. WATERMASTER**

24 **A. Composition, Voting and Compensation.** The Watermaster shall be a committee
25 composed of one representative of each of the following Parties, and each representative shall have
26 the authority to cast the indicated number of votes on any question before the committee:

27 City of La Verne

5 votes

1	City of Pomona	5 votes
2	City of Upland	5 votes
3	Southern California Water Company	5 votes
4	City of Claremont	2 votes
5	TVMWD	2 votes
6	PVPA	2 votes
7	Simpson Paper	1 vote
8	Pomona College	1 vote
9	San Antonio	1 vote

10 Committee representatives having the combined authority to cast twenty votes shall constitute a
 11 quorum for the transaction of affairs of Watermaster and seventeen affirmative votes shall be required
 12 to constitute action by Watermaster. Representatives shall be compensated for their services by their
 13 respective appointing authorities. Representatives may be reimbursed by Watermaster for out of
 14 pocket expenses incurred on authorized Watermaster business.

15 **B. Nomination and Appointment Process.** Each of the Parties named in Article VA,
 16 above, shall within thirty (30) days of entry of this Judgment submit to the Court its nominees for its
 17 representative member of the Watermaster Committee and one alternate and the Court shall in the
 18 ordinary course confirm the same by an appropriate order of appointment. Once appointed
 19 representatives and their alternates shall normally serve until a replacement is designated by the Party
 20 or until removed by the Court. If a representative or alternate is no longer willing or able to serve
 21 for any reason the Party represented by such member or alternate shall promptly submit a
 22 replacement for the member or their alternate. There shall be no need for replacement representative
 23 members or alternates to be approved by the Court. In its annual report to the Court, Watermaster
 24 shall update the list of its representative members and alternates.

25 **C. Succession.** For the purpose of determining whether a permanent Transfer of a Base
 26 Annual Production Right shall affect whether a Party shall have a Representative on the Watermaster
 27 Committee and the number of votes held by the representative, the following guidelines shall apply:
 28

1 1. **Partial Succession.** The permanent Transfer of less than any Party's full Base
2 Annual Production Right shall be considered a "partial" succession. A partial succession shall not
3 create any new or additional voting rights in the successor Party or require any modifications to the
4 rules and procedures under this Article V. The full Base Annual Production Right of any Party shall
5 be equal to the entire quantity of the Base Annual Production Right for that Party set forth in Exhibit
6 D on the Effective Date.

7 2. **Non-Party Successor.** A permanent Transfer of the full Base Annual
8 Production Right of any Party to a Non-Party shall automatically include the authority to cast the
9 number of votes held by the Party. In addition, the Non-Party shall succeed to all other rights and
10 responsibilities of their predecessor Party under this Judgment.

11 3. **Party Successor.** A permanent Transfer of the full Base Annual Production
12 Right between Parties shall automatically include the authority to cast a number of votes equal to the
13 greater of: (a) the number of votes indicated for the acquiring Party on the Effective Date or (b) the
14 number of votes indicated for the Party whose Base Annual Production Right has been acquired at
15 the time the Transfer is approved by the Watermaster. The number of votes equal to the lesser of 3(a)
16 or 3(b) shall be extinguished. The acquisition of one Party's full Base Annual Production Right by
17 another Party shall not cause a change in the number of votes required to constitute a quorum or to
18 take an action under this Article. However, in the event more than two votes are eliminated, any
19 Party or the Watermaster upon its own motion, may petition the Court to revise the required number
20 of votes to constitute a quorum or to take action under this Judgment.

21 D. **Powers and Duties.** Subject to the continuing supervision and control of the Court
22 and the limitations set forth in this Judgment, Watermaster shall have and may exercise the following
23 express powers, and shall perform the following duties, together with any specific powers, authority
24 and duties granted or imposed elsewhere in this Judgment or hereafter ordered or authorized by the
25 Court in the exercise of its continuing jurisdiction:

- 26 1. Developing, Maintaining and Implementing the Operating Plan.
27 2. Adopting Rules, Regulations, Procedures, Criteria and Time Schedules.

3. Acquiring or Investing in Facilities or Facility Improvements.
4. Acquiring or Investing in Monitoring Facilities.
5. Inspecting and Testing Measuring Devices.
6. Levying Assessments
7. Requiring the Acquisition of and Recharge of Replacement Water.
8. Contracting for Necessary Services. (Including the execution of agreements regarding spreading and groundwater modeling.)
9. Employing Agents, Experts and Legal Counsel provided that Watermaster shall not contract with or otherwise engage a Party with a Base Annual Production Right to perform directly or indirectly, administrative services. However, this limitation shall not apply to spreading services under Exhibit C, and meter reading.
10. Adopting an annual budget for monitoring and reporting legal and administrative costs.
11. Managing Watermaster Funds.
12. Cooperating with Federal, State and Local Agencies.
13. Entering and Administering Storage and Recovery Agreements.
14. Maintaining a Notice List.
15. Reporting Annually to the Court.
16. Engaging in Dispute Resolution.
17. Prosecuting litigation against Non-parties in furtherance of the Judgment.
18. Limiting groundwater production to Operating Safe Yield during a Water Shortage Emergency.

E. **Organization and Meetings.** At its first meeting in each Year Watermaster shall elect a chair, vice chair, secretary and treasurer and such other officers as may be appropriate. Watermaster shall hold regular meetings at places and times specified in its rules and regulations, and may hold such special meetings as may be required. Watermaster shall provide notices of all regular and special meetings to all parties and any person requesting notice in writing. Any meeting may be adjourned

1 to a time and place specified in the order of adjournment. Meetings shall be conducted to the extent
2 practicable in accordance with the provisions of the California Open Meetings Law ("Brown Act")
3 *California Government Code Section 54950*, et seq as it may be amended from time to time.

4 F. Limits on Assessments. Watermaster shall not have the authority to levy assessments
5 beyond those specifically described herein.

6 VI. **PHYSICAL SOLUTION FOR THE SIX BASINS AREA**

7 A. General Purposes and Objectives.

8 1. Physical Solution is Consistent With the Public Interest. The Physical Solution
9 is consistent with each Party's full enjoyment and the reasonable exercise of its respective water
10 rights will not materially injure the interests of any Parties and will promote coordinated groundwater
11 management with due regard for the environment and it is therefore consistent with the public interest
12 and the reasonable and beneficial use of water.

13 2. Balance of Equities. This Physical Solution constitutes a legal and practical means
14 for balancing the needs of the Parties for a reliable water supply, providing an appropriate incentive
15 for remediation of poor water quality conditions, managing the available groundwater storage
16 capacity to protect against loss of available groundwater and against damage from high groundwater
17 levels with due regard for the environment.

18 3. Flexibility. It is essential that this Physical Solution provides maximum flexibility
19 so that the Watermaster and the Court may be free to adapt and accommodate future changed
20 conditions or new institutional or technological considerations. To that end the Court's retained
21 jurisdiction may be utilized to augment or adjust the Physical Solution without adjustment to a Party's
22 Base Annual Production Right.

23 B. Guidelines for Operation of Four Basins Area.

24 All production, replenishment, replacement, and Storage and Recovery of water in the Four
25 Basins Area must be conducted pursuant to the Operating Plan adopted by Watermaster in accordance
26 with the principles and procedures contained in this Judgment. The following general pattern of
27 operations is contemplated:
28

1 1. **Replenishment.** Groundwater will be replenished pursuant to Exhibit "E" or under
2 any other replenishment program or activity to the extent water which is naturally tributary to the Six
3 Basin Area, is available for that purpose and can safely be spread.

4 2. **Storage and Recovery.** Other Native Water, imported water or other water may be
5 stored and recovered pursuant to Storage and Recovery Agreements.

6 3. **Operating Safe Yield.** Watermaster will annually, not later than September 15,
7 establish the Operating Safe Yield for the Four Basins for the following Year, taking into
8 consideration the amount of water in storage and the need to control water table elevations.
9 Watermaster shall review the condition of the Four Basins at least quarterly during the Year and may
10 make any appropriate adjustments of the Operating Safe Yield.

11 4. **Production.** In any Year, each Party will be free to produce its share of the Operating
12 Safe Yield, including any Carryover Rights or Transfers, plus any water authorized to be recovered
13 pursuant to a Storage and Recovery Agreement. Except upon Transfer, no change shall be made to
14 any Party's Base Annual Production Rights.

15 5. **Replacement Water.** Notwithstanding any limitation contained in this Judgment, a
16 Party may produce and export water from the Four Basins in excess of its Base Annual Production
17 Right and its share of the Operating Safe Yield, plus unused Carryover rights and recoverable
18 groundwater pursuant to an approved Storage and Recovery Agreement, subject to the requirement
19 to provide Replacement Water in the manner set forth herein.

20 a. **Obligation to Provide Replacement Water.** To the extent a Party's
21 production in the Four Basins or in any basin exceeds that Party's share of the Operating Safe Yield,
22 plus unused Carryover rights and recoverable groundwater pursuant to an approved Storage and
23 Recovery Agreement, the Party shall arrange for delivery of Replacement Water in an amount equal
24 to the Party's excess production by any of the following: (i) acquiring Replacement Water directly
25 from TVMWD except Upland which may also acquire Replacement Water from the Inland Empire
26 Utilities Agency ("the Empire"); (ii) arranging for delivery of a Native water supply other than
27 Replenishment Water; or (iii) paying a Replacement Water Assessment to Watermaster for the
28

1 purpose of acquiring Replacement Water directly from TVMWD except as to Upland for which
2 Watermaster may acquire replacement water from the Empire.

3 **b. In Lieu Procedures.** Replacement Water may be supplied through In-Lieu
4 Procedures, spreading or other method at a place, time and manner, acceptable to Watermaster, for
5 a price and upon terms to be determined by TVMWD except as to Upland for which the price and
6 terms may be determined by the Empire.

7 **c. Replacement Water Assessment.** Watermaster will use Replacement Water
8 Assessment proceeds to acquire Replacement Water from TVMWD, or as to Upland, the Empire.

9 **6. Development, Maintenance and Implementation of the Operating Plan.** Water-
10 master is directed to maintain and implement the Operating Plan such that Production, Replenishment
11 and Storage and Recovery of water are consistent with and implement the purpose and objectives of
12 the Physical Solution herein. The Operating Plan shall include rules, regulations, procedures, criteria,
13 and time schedules, as appropriate, for at least the following elements:

- 14 a. Establishing and adjusting the Operating Safe Yield.
- 15 b. Replenishment.
- 16 c. Execution of supplemental agreements with PVPA regarding spreading
17 grounds and the funding thereof.
- 18 d. Acquisition and delivery of Replacement Water.
- 19 e. Standard terms and conditions of Storage Agreements.
- 20 f. Replenishment, replacement and storage limits needed to protect against high
21 groundwater levels.
- 22 g. Remediation of water quality problems.
- 23 h. Monitoring systems and protocols, including such for groundwater levels.
- 24 i. Monitoring, reporting and verification programs.
- 25 j. Transfers.
- 26 k. Annual budgets.
- 27 l. Financial management.

28

1 m. Reporting to the Court.

2 n. Levying Assessments.

3 7. **Initial Operating Plan.** Within six months of the effective date of this Judgment
4 Watermaster shall submit to the Court for approval an initial Operating Plan. An outline of the Initial
5 Operating Plan is attached as Exhibit "G."

6 8. **Annual Review of the Operating Plan.** Watermaster shall review the Operating Plan
7 at least annually and, subsequent to each such review, submit to the Court for its approval any
8 proposed amendments or revisions.

9 9. **Replenishment.** PVPA and Pomona historically augmented the Native Safe Yield
10 within the Four Basins Area through replenishment programs or activities. For many years these
11 replenishment programs or activities have resulted in the spreading and percolation of native waters
12 originating in the San Antonio Canyon and Evey Canyon. To the extent such waters have been
13 historically spread, they comprise a portion of the Safe Yield and Operating Safe Yield subject to
14 management under this Physical Solution.

15 a. All Replenishment shall be at the direction of the Watermaster.

16 b. At the direction and sole discretion of the Watermaster PVPA shall, pursuant
17 to the Memorandum of Agreement set forth in Exhibit "C" or any subsequent
18 amendments thereto, continue to spread such native waters as it receives.

19 c. Unless it is acting for the benefit of another Party pursuant to a Storage and
20 Recovery Agreement approved by the Watermaster, except for Replacement Water,
21 all water PVPA spreads, sinks or injects shall be considered Replenishment and shall
22 comprise a portion of the Operating Safe Yield.

23 d. Although Pomona has no continuing obligation to spread or replenish, all
24 waters spread in excess of its "historical replenishment" shall not be considered
25 Replenishment and a part of the Operating Safe Yield of the Four Basins Area. The
26 "historical replenishment" of Pomona shall be equal to a twelve (12) year annual
27 average for the twelve (12) years immediately preceding the filing of the complaint
28

(1985-1996), which is determined to be one-hundred and thirty) acre feet. All water Pomona spreads, sinks or injects, or causes to be spread, sunk or injected (collectively augmentation) in excess of the historical replenishment shall not be considered a portion of the Operating Safe Yield, and shall not be allocated among the Parties pursuant to their Base Annual Production Rights. Pomona shall be entitled to produce such excess quantity in addition to its Base Annual Production Right under a pre-approved Storage and Recovery Agreement as provided in Article VIA, Section 10 in a form substantially similar to Exhibit F hereto, which is ordered to be executed by Watermaster and Pomona within sixty (60) days from the Effective Date. Measurement of Pomona's rights to recover water under any Storage and Recovery Agreement shall be administered as follows:

- i. Pomona shall be entitled to recover the amount by which its augmentation of water over the twelve (12) year period ending with the current year exceeds 1,560 acre feet.
- ii. If less than twelve (12) years have elapsed since the effective date this Judgment, Pomona shall have the right to recover the amount by which the total number of acre feet of groundwater augmented by Pomona exceeds one hundred thirty (130) acre feet times the number of years elapsed.
- iii. The amount in excess of Pomona's historical replenishment may be recovered by Pomona as provided in the Storage and Recovery Agreement.

10. Storage and Recovery Pursuant to Storage and Recovery Agreements.

Watermaster may enter a Storage and Recovery Agreement with any Party holding a Base Annual Production Right or TVMWD so long as the Storage and Recovery of groundwater will not cause an unreasonably high groundwater table and physical damage. A Storage and Recovery Agreement shall contain uniform terms and conditions as set forth in the Operating Plan and may also contain

1 special terms and conditions as deemed appropriate by Watermaster. Water that may be stored
2 pursuant to a Storage Agreement includes any water other than Replenishment Water including
3 augmentation in excess of historical replenishment as expressly set forth under Article VIB, Section
4 9.

5 **11. Special Projects.** Any Party may propose for Watermaster approval, special projects
6 including projects for controlling water levels or for remediation of water quality problems. Any such
7 proposal shall be accompanied by an analysis that identifies the benefits of the project as well as any
8 potential adverse impacts on any Party and any proposed mitigation measures. After notice to all
9 Parties, if any Party files a written objection to the proposed project, Watermaster shall hold a hearing
10 to determine whether the objections to the proposed project can be resolved. If there are no
11 objections or if objections are resolved to the satisfaction of the Parties or if Watermaster determines
12 that the objections are without merit, then Watermaster shall approve the proposed project.
13 Groundwater produced under authorization as a Special Project shall not be eligible for the accrual
14 of Carryover Rights unless authorized by Watermaster.

15 **12. Temporary Surplus Groundwater.** From time to time it may be in the best interest
16 of the Parties, for the control of high groundwater, water quality remediation or other reasons, to
17 produce groundwater over and above the then declared Operating Safe Yield. Therefore, from time
18 to time, the Watermaster may declare a Temporary Surplus of groundwater to be available for
19 production. The Parties' rights to the Temporary Surplus shall be in the same percentages as the Base
20 Annual Production Right bears to the Operating Safe Yield. A Party's rights to temporary surplus
21 shall not be eligible for the accrual of Carryover Rights set forth in Article IIIB, Section 2.

22 **C. Guidelines for Operation of the Two Basins Area.** All Production, Replenishment
23 and Storage and Recovery rights for groundwater in the Two Basins Area are reserved to La Verne.
24 However, La Verne's Production, Replenishment and Storage and Recovery of groundwater must not
25 substantially injure other Parties.

26 **1. Replenishment.** La Verne shall have sole and complete discretion in the operation
27 of Replenishment programs in the Two Basins Area provided that no other Party is substantially
28

1 injured by the program. La Verne shall provide written notice to Watermaster sixty (60) days in
2 advance of any Replenishment program being undertaken.

3 2. **Storage and Recovery.** La Verne shall have sole and complete discretion in the
4 operation of a Storage and Recovery program in the Two Basins Area provided that no other Party
5 is substantially injured by the program. La Verne shall provide written notice to Watermaster sixty
6 (60) days in advance of any Storage and Recovery program being undertaken. La Verne shall
7 annually report the quantity of groundwater stored pursuant to a Storage and Recovery Program in
8 the Two Basins Area.

9 3. **Production.** La Verne shall have sole and complete discretion to produce
10 groundwater from the Two Basins Area provided that no other Party is substantially injured by such
11 production. La Verne shall report its groundwater production to the Watermaster on a monthly basis.

12 **VII. ASSESSMENTS**

13 A. **Ground Rules**

14 1. **Authorization.** Subject to the continuing supervision of the Court and the limitations
15 set forth in the Judgment, Watermaster is authorized to levy assessments to fund Replacement Wat.
16 acquisition costs, administrative costs and other costs determined by Watermaster to be necessary for
17 the implementation of the physical solution.

18 2. **Assessment Spread.** Excluding Replacement Water Assessments, all assessments
19 levied by the Watermaster shall be spread such that Claremont, Pomona College and TVMWD
20 (collectively, the "Minor Parties") shall each individually be assessed three and one half (3.5) percent
21 of the total assessment, and eighty-nine and one half (89.5) percent of the total assessment is spread
22 among La Verne, Pomona, Upland, San Antonio, West End, ~~Simpson~~ and SCWC (collectively, the
23 "Major Parties") in proportion to their then-current holdings of Base Annual Production Rights,
24 provided that for assessments other than for Replacement Water or administration (a) the total amount
25 spread among Minor Parties shall not exceed sixty-thousand \$60,000, escalated, in any year without
26 their unanimous consent and (b) the total amount spread among the Major Parties in any year shall
27 not exceed ten dollars (\$10.00), escalated, per acre foot of their Base Annual Production Rig'

without their unanimous consent. "Escalated" shall mean an annual adjustment in the specified dollar value based upon the Consumer Price Index for Southern California in the immediately preceding Year. No escalation adjustment shall be made until the Judgment has been in effect for twelve consecutive calendar months. PVPA shall not have any obligation to pay any assessments.

3. **Administrative Assessment.** Watermaster is authorized to levy an annual assessment that is sufficient to fund the costs of administering the Judgment. The administrative assessment shall not exceed the cost of Watermaster's administrative budget and shall be due and payable according to a schedule established by Watermaster. The administrative assessment for the first Year following entry of Judgment shall be \$8.00 ^{per AF} and shall be due and payable on January 15, 1999. Late payment shall bear an interest penalty to be established annually by Watermaster. (*escalated?*)

4. **Replacement Water Assessments.** To the extent Watermaster must acquire and recharge the groundwater with Replacement Water pursuant to the terms of this Judgment, in order to fund the costs thereof, Watermaster is authorized to levy Replacement Water Assessments. Replacement Water Assessments levied against any Party shall be sufficient to pay the costs to replace such Party's production in excess of the sum of such Party's share of the Operating Safe Yield, any Carryover Right or Transfers and any storage recovery, Production of Temporary Surplus or pursuant to Special Project authorization, during the prior Year, minus any Replacement Water provided to Watermaster by the Party. Any Replacement Water Assessment shall be paid within sixty (60) days from the date of the written invoice from Watermaster.

VIII. DISPUTE RESOLUTION

A. **Entity for Resolution of Dispute.** All disputes arising under this Judgment initially shall be submitted to Watermaster for resolution in accordance with the provisions of this Article.

B. **Determination Regarding Substantial Injury.** Any Party having a right to be protected against "substantial injury" caused by any other Party; the right to proceed so long as not causing substantial injury to another party; or any other claim, right or remedy against any other Party arising under the provisions of this Judgment may file a written request with the Watermaster to hold a hearing.

1 C. Notice and Hearing. Upon receipt of the written request, Watermaster shall provide
2 written notice to each Party which generally describes the nature of the dispute. Thereafter
3 Watermaster shall cause an item to be placed on the agenda for the next regularly scheduled meeting
4 of the Watermaster or if requested by the moving Party, call a special meeting for the purpose of
5 providing a full hearing of the dispute and providing the interested Parties with notice and
6 opportunity to be heard. No later than 30 days following the conclusion of the hearing(s)
7 Watermaster shall issue a written decision which is dispositive of the dispute and which is supported
8 by written findings. Any Party may seek review of an adverse decision of the Watermaster in
9 accordance with the provisions of Article IX.

10 **IX. ADDITIONAL PROVISIONS**

11 A. Procedure

12 1. Designation of Address for Notice and Service. Each Party shall designate the name
13 and address to be used for purposes of all subsequent notices and service herein, either by its
14 endorsement on the Stipulation for Judgment or by a separate designation to be filed within thirty
15 (30) days after Judgment has been entered. Said designation may be changed from time to time by
16 filing a written notice of such change with Watermaster. Any Party desiring to be relieved of
17 receiving notices of Watermaster activity may file a waiver of notice on a form to be provided by
18 Watermaster. Watermaster shall maintain at all times a current list of Parties to whom notices are
19 to be sent and their address for purposes of service. Watermaster shall also maintain a full current
20 list of names and addresses of all Parties or their successors, as filed herein. Copies of such lists shall
21 be available to any person. If no designation is made, a Party's designee shall be deemed to be, in
22 order of priority: (i) the Party's attorney of record; (ii) if the Party does not have an attorney of
23 record, the Party itself at the address on the Watermaster list.

24 2. Service of Documents. Delivery to or service upon any Party by Watermaster, by any
25 other Party, or by the Court, of any document required to be served upon or delivered to a Party under
26 or pursuant to this Judgment shall be deemed made if made by deposit thereof (or by copy thereof)

1 in the mail, first class postage prepaid, addressed to the designee of the Party and at the address
2 shown in the latest designation filed by that Party.

3 **3. Recordation of Notice.** Within sixty (60) days following entry of this Judgment,
4 Watermaster shall record in the office of the County Recorder of the Los Angeles and San Bernardino
5 Counties a notice substantially complying with the notice content requirements set forth in *Section*
6 *2529 of the California Water Code* as it exists on the Effective Date.

7 **4. Judgment Binding on Successors.** Subject to specific provisions hereinbefore
8 contained, this Judgment and all provisions thereof are applicable to and binding upon and inure to
9 the benefit of not only the Parties to this action, but also to their respective heirs, executors,
10 administrators, successors, assigns, lessees, licensees and to the agents, employees and attorneys in
11 fact of any such Persons.

12 **5. Costs.** No Party stipulating to this Judgment shall recover any costs or attorneys fees
13 in this proceeding from another stipulating Party. In any future proceedings, the costs of notice or
14 service, shall be levied in accordance with the provisions of Article XIA, Section 6.

15 **6. Review Procedures.** Any action, decision, rule or procedure of Watermaster pursuant
16 to this Judgment shall be subject to review by the Court on its own motion or on timely motion by
17 any Party, as follows:

18 **a. Effective Date of Watermaster Action.** Any order, decision or action of
19 Watermaster pursuant to this Judgment on noticed specific agenda items shall be deemed to have
20 occurred on the date of the order, decision or action.

21 **b. Notice of Motion.** Any Party may, by a regularly noticed motion, petition the
22 Court for review of Watermaster's action or decision pursuant to this Judgment. The motion shall
23 be deemed to be filed when a copy, conformed as filed with the Court, has been delivered to
24 Watermaster together with the service fee established by Watermaster sufficient to cover the cost to
25 photocopy and mail the motion to each Party. Watermaster shall prepare copies and mail a copy of
26 the motion to each Party or its designee according to the official service list which shall be
27 maintained by Watermaster according to Article XIA, Section 1, a Party's obligation to serve notice
28

1 of a motion upon the Parties is deemed to be satisfied by filing the motion as provided herein. Unless
2 ordered by the Court, any such petition shall not operate to stay the effect of any Watermaster action
3 or decision which is challenged.

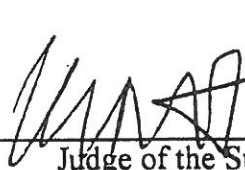
4 c. **Time for Motion.** A motion to review any Watermaster action or decision
5 shall be filed within ninety (90) days after such Watermaster action or decision, except that motions
6 to review Watermaster Assessments hereunder shall be filed within thirty (30) days of mailing of
7 notice of the Assessment.

8 d. **De Novo Nature of Proceeding.** Upon filing of a petition to review
9 Watermaster action, the Watermaster shall notify the Parties of a date when the Court will take
10 evidence and hear argument. The Court's review shall be de novo and the Watermaster decision or
11 action shall have no evidentiary weight in such proceeding.

12 e. **Payment of Assessments.** Payment of Assessments levied by Watermaster
13 hereunder shall be made when due, notwithstanding any motion for review of Watermaster action,
14 decision, rules or procedures, including review of Watermaster Assessments.

15
16 B. **Entry of Judgment.** The Clerk shall enter this Judgment.

17
18 DEC 18 1998
19 Dated: _____ 1998.

20
21 
22 _____
23 Judge of the Superior Court

24
25 **WILLIAM J. McVITTIE**
26
27
28

EXHIBIT B

DESCRIPTION OF SIX BASINS AREA

The Six Basins Area lies between the San Jose Hills on the south, the Chino Basin on the east, the San Gabriel Mountains on the north and the Main San Gabriel Basin on the west. The boundaries of the Main San Gabriel Basin are set forth in the Judgment in the case of the *Upper San Gabriel Valley Municipal Water District vs. City of Alhambra, et al.*, Superior Court of the State of California, Los Angeles County, Case No. 924128, and the boundaries of the Chino Basin are set forth in the Judgment in the case of *Chino Basin Municipal Water District vs. City of Chino, et al.*, Superior Court for the State of California, San Bernardino County, Case No. 164327. The Area consists of six interconnected groundwater basins. Each basin consists of all alluvium or other water-bearing formations lying beneath the surface of the basin. The approximate boundaries of the surface of each basin are shown on EXHIBIT A and are described generally as follows:

Canyon Basin. The surface of the Canyon Basin is bounded on the south and east by the surface trace of the Sierra Madre/Cucamonga Fault and on the north and west by the surface trace of the bedrock/alluvium interface between (a) the point of intersection in Township 1 North, Range 8 West, Section 31, SBB&M, of the Sierra Madre/Cucamonga Fault with easterly boundary of the Main San Gabriel Basin and (b) the point of intersection in Township 1 North, Range 8 West, Section 20, SBB&M, of the Sierra Madre/Cucamonga Fault with the San Gabriel Mountains. The northernmost extent of the bedrock/alluvium interface is assumed to be at the southern boundary of Township 1 North, Range 8 West, Section 13, SBB&M in San Antonio Canyon.

Upper Claremont Heights Basin. The surface of the Upper Claremont Heights Basin is bounded on the south by the surface trace of the Indian Hill Fault, on the east by the westerly boundary of the Chino Basin, on the north by the surface trace of the Sierra Madre/Cucamonga Fault and on the west by the surface trace of the Claremont Heights Barrier.

Lower Claremont Heights Basin. The surface of the Lower Claremont Heights Basin is bounded on the south by the surface trace of the Indian Hill Fault, on the east by the surface trace of the Claremont Heights Barrier, on the north by the surface trace of the Sierra Madre/Cucamonga Fault on the west by the surface trace of the Thompson Wash Barrier.

Live Oak Basin. The surface of the Live Oak Basin is bounded on the south by the surface trace of the Indian Hill Fault, on the east by the surface trace of the Thompson Wash Barrier, on the north by the surface trace of the Sierra Madre/Cucamonga Fault and on the west by the easterly boundary of the Main San Gabriel Basin.

Ganesha Basin. The surface of the Ganesha Basin is bounded on the south and east by the surface of the San Antonio Fault, on the north surface trace of the Indian Hill Fault, and on the west by easterly boundary of the Main San Gabriel Basin and by the surface trace of the bedrock/alluvium interface between (a) the point of intersection in Township 1 South, Range 9 West, Section 11, SBB&M, of the easterly boundary of the Main San Gabriel Basin with the San Jose Hills and (b)

the point of intersection in Township 1 South, Range 9 West, Section 14, SBB&M, of the surface trace of the San Antonio Fault with the San Jose Hills.

Pomona Basin. The surface of the Pomona Basin is bounded on the south by the surface trace of the bedrock/alluvium boundary between (a) the intersection in Township 1 South, Range 9 West, Section 14, SBB&M, of the surface trace of the San Antonio Fault with the San Jose Hills and (b) the intersection in Township 1 South, Range 8 West, Section 19, SBB&M, of the boundary of the Chino Basin, on the north by the surface trace of the Indian Hill Fault on the west by the surface of the San Antonio Fault.

1 MEMORANDUM OF AGREEMENT
2 BETWEEN THE POMONA VALLEY PROTECTIVE ASSOCIATION
3 AND WATERMASTER OF THE SIX BASINS RELATING TO
4 WATER SPREADING AND RELATED ACTIVITIES
5

6 THE AGREEMENT, made, entered into, and executed as of this ____ day of _____,
7 1999, by and between the Pomona Valley Protective Association ("PVPA"), and Watermaster of the
8 Six Basins ("Watermaster"), relating to water spreading and related activities in connection with the
9 Canyon Basin, the Upper Claremont Height Basin, the Lower Claremont Heights Basin, the Live
10 Oak Basin, the Ganesha Basin and the Pomona Basin (collectively, the "Six Basins").

11 RECITALS

12 WHEREAS, the rights to groundwater in connection with the Six Basins were adjudicated
13 by the court in an action entitled "*Southern California Water Company v. City of La Verne, et al.*,"
14 Case No. KC029152 in the Superior Court of the State of California, County of Los Angeles, (the
15 "Judgment"); and

16 WHEREAS, the Judgment requires the Watermaster to determine annually an Operating Safe
17 Yield of the Six Basins and to develop an Operating Plan, which will include the monitoring and
18 direction of all production, replenishment, replacement and storage of groundwater in the Six
19 Basins; and

20 WHEREAS, PVPA, a California corporation, formed in 1910 by various water interests in
21 Pomona Valley, engages in water conservation activities for the benefit of its shareholders, which
22 include the City of Upland, Southern California Water Company, the City of Pomona, Simpson
23 Paper Co., Pomona College, the San Antonio Water Company, and the West End Water Company;
24 and

25 WHEREAS, PVPA owns certain real property in and around the Six Basins area primarily
26 consisting of two spreading grounds: the San Antonio Spreading Grounds and the Thompson Creek
27 Spreading Grounds together with appurtenant diversion and conveyance facilities (the "Spreading
28 Grounds" herein); and

1 WHEREAS, in connection with its water conservation activities, PVPA has conducted
2 several technical studies of the Six Basins including the development of a numerical groundwater
3 model which assists in the prediction of the Six Basins' response to PVPA's spreading activities, and
4 is used to control the groundwater resources for the Six Basins and to mitigate high groundwater in
5 the Six Basins; and

6 WHEREAS, the parties to the Judgment have conducted additional studies including the
7 enhancement and refinement of the PVPA groundwater model.

8 NOW, THEREFORE, in consideration of mutual promises, agreements, and covenants of
9 Watermaster and PVPA collectively referred to herein as "the Parties" agree as follows:

10 **I. DEFINITIONS**

11 A. The Judgment defines certain important terms. Except as to the definitions provided
12 in this Agreement, the terms used in this Agreement which have been defined in the Judgment shall
13 have the meaning set forth in the Judgment and the definitions set forth in the Judgment are
14 incorporated herein by this reference

15 B. "Emergency" shall mean a sudden event which threatens life or property.

16 C. "Models" shall mean the spreadsheet and the basin wide models used by PVPA in
17 development of an Operating Plan and any subsequent version or improvement thereof.

18 D. "Parties" written with an upper case P, refer to the Watermaster and to PVPA.
19 Parties written with a lower case p, refer to the parties to the Judgment as defined therein.

20 **II. SPREADING GROUNDS AND SPREADING OPERATIONS**

21 A. Watermaster Direction and PVPA Reservation. PVPA shall use and operate the
22 Spreading Grounds primarily for the spreading of replenishment, replacement and storage water
23 under the direction of the Watermaster Plan. PVPA reserves the right to use the Spreading Grounds
24 for other lawful activities consistent with its water spreading activities so long as doing so does not
25 impair PVPA's ability to spread replenishment water in quantities substantially comparable to
26 historic quantities.

27 B. Impossibility and related defenses. PVPA shall not be liable, in breach or in default
28 of the Agreement if PVPA is unable, either temporarily or permanently, to perform its obligations

1 under the Agreement for reasons beyond PVPA's reasonable control, including but not limited to,
2 acts of God, eminent domain, impossibility or impracticability of performance, interference of a
3 third party and natural disasters, including without limitation, floods, earthquakes, and fires.

4 C. PVPA Discretion. PVPA shall have discretion to make operational decisions in
5 discharging its obligation hereunder within the scope of Watermaster direction.

6 D. Common conditions of spreading. In addition to the direction of Watermaster PVPA
7 shall spread replenishment, replacement or storage waters subject to the following conditions.

8 1. Cessation of Spreading for Emergencies. PVPA reserves the right to cease
9 spreading at any time, without prior notice to Watermaster if, in the discretion of PVPA, such action
10 shall be warranted by, and in connection with, any emergency condition. PVPA will give
11 Watermaster immediate notice of any such cessation.

12 2. Water Quality. PVPA bears no responsibility for the quality of replenishment,
13 replacement or storage water or the impacts of spreading such water upon water quality of the Six
14 Basins.

15 3. High Groundwater. PVPA bears no responsibility for high groundwater due
16 to any spreading of replenishment, replacement or storage water.

17 4. Rejected water. PVPA bears no responsibility for loss of replenishment,
18 replacement or storage water which is rejected or otherwise lost.

19 5. Measurement and Reporting. Watermaster shall provide adequate measuring
20 devices to measure the spreading of replenishment, replacement and storage waters and any such
21 water rejected or lost. PVPA will keep, maintain and furnish to Watermaster on a monthly basis,
22 records of the quantities of replenishment waters spread and rejected.

23 6. Record of Deliveries and Spreading. Watermaster shall keep, maintain and
24 furnish to PVPA records of the quantities and quality of replacement or storage waters delivered
25 within 30 days following delivery of such waters. PVPA shall keep, maintain, and furnish to
26 Watermaster the quantities of replacement and storage waters spread within 30 days following
27 delivery of such water together with an estimate of the quantities of water bypassing the spreadi
28 facilities, if any.

1 7. Compensation. Subject to review by the court under its continuing
2 jurisdiction in Case No. KC029152, Watermaster shall pay PVPA's actual, reasonable and necessary
3 costs incurred by PVPA in spreading replenishment, replacement and storage water. PVPA will
4 bill Watermaster such costs on a quarterly basis and such bill will include a reasonably detailed
5 accounting of such costs under generally accepted accounting principles (GAAP). Payment is due
6 upon billing. PVPA's costs may be subject to review or audit by an outside accounting firm selected
7 and paid by Watermaster (within thirty days following billing). Within thirty (30) days following
8 billing, Watermaster shall either contest the billing or accept said billing.

9 E. Replenishment water. In addition to the above, PVPA shall spread replenishment
10 water as it becomes available. PVPA has no control over the availability of replenishment waters
11 and is under no obligation to spread any specific quantity of replenishment water.

12 F. Replacement Water. In addition to the above, PVPA shall spread Replacement
13 Water on the Spreading Grounds under the following terms and conditions. Pursuant to the
14 Judgment, only qualified parties under the Judgment may store water in the Six Basins upon entry
15 into a Storage and Recovery Agreement with Watermaster. Upon request, PVPA shall spread
16 storage water under the following terms and conditions:

17 1. Terms of Delivery. Watermaster shall deliver and PVPA shall spread storage
18 water under the same terms and conditions as replacement waters.

19 2. Replacement Water Flows. PVPA will assist Watermaster in determining the
20 allowable daily rates and the duration of replacement water deliveries, based upon conditions
21 existing from time to time, including any unused capacity available at and in PVPA spreading
22 facilities.

23 3. Notice of New or Changed Replacement Water Flows. Watermaster, at least
24 seven (7) days prior to any anticipated delivery of replacement water, shall notify PVPA that water
25 will be available for transport and spreading and shall give PVPA at least forty-eight (48) hours
26 notice of any anticipated change in previously established flow rates of delivery for such water.

27 4. Spreading Grounds Limitations. PVPA may require changes in delivery flow
28 rates when, in PVPA's opinion, continued spreading (in whole or in part) cannot be carried out

1 hereunder due to operational and/or maintenance problems, including, but not limited to, trespassing,
2 insect infestations, scarification, weed abatement, and/or construction in or at PVPA's conveyance
3 and spreading facilities. When it is reasonable to do so, PVPA will give Watermaster at least twenty-
4 four (24) hours' notice of any such changes.

5 III. OWNERSHIP AND IMPROVEMENTS OF SPREADING GROUNDS

6 A. No Dedication. Nothing in this Agreement shall be construed as a dedication of the
7 PVPA Spreading Grounds or its facilities to Watermaster, the other parties to the Judgment, or to
8 the public use or benefit. The spreading grounds and appurtenant facilities are, and remain, the sole
9 property of PVPA. PVPA may sell, lease, or otherwise dispose of portions of its spreading grounds
10 at its own discretion but not inconsistent with this Agreement.

11 B. Spreading Grounds Improvements. Nothing in this Agreement obligates or otherwise
12 requires PVPA to construct new or additional facilities in connection with its spreading operations.
13 PVPA may at its discretion construct new or additional facilities. Watermaster may propose
14 improvements to PVPA's spreading grounds and facilities at its own expense.

15 C. Condemnation. Watermaster agrees to and does waive and disclaim any interest in
16 any award or settlement which may be made in any proceeding in eminent domain concerning all
17 or part of the Spreading Grounds whether the taking be total or partial, or for easement purposes.
18 If the taking be such as to render the Spreading Grounds totally unfit and unsuitable for the above
19 use, then, pursuant to Paragraph II,^B~~A~~ PVPA is not in default or breach.

20 IV. GROUNDWATER MODEL

21 A. License for use. PVPA grants Watermaster a license to use its Spreadsheet Models
22 pursuant to the terms and conditions of this agreement for the development of an Operating Plan.
23 In developing the initial operating plan, Watermaster has used PVPA's Groundwater Models. In
24 developing subsequent operating plans or revising such plans, Watermaster shall use PVPA's
25 Groundwater Models and any subsequent version or improvement thereof, or other criteria at
26 Watermaster's discretion.

1 1. Custody of the PVPA's Groundwater Models. Watermaster shall have
2 physical custody of a copy of the model. However, PVPA shall have the right to access the Models
3 for any purpose which is not inconsistent with the Judgment or the direction of the Watermaster.

4 2. Updates to Model.

5
6 Said license shall include, following consultation with PVPA, the right to make changes,
7 modifications, improvements, updates, or refinements in or to PVPA's Groundwater Model at the
8 sole expense of Watermaster and without any contribution from PVPA.

9 B. Terms and Conditions. For daily operations, Watermaster shall be responsible for
10 keeping, maintaining and reporting on the data base necessary for use of PVPA's Groundwater
11 Models. Watermaster shall collect water level and quality data necessary, including key well levels
12 and rainfall data, to use the Groundwater Models to implement the Physical Solution. Watermaster
13 shall provide this data to PVPA by the fifteenth day of each month. PVPA shall provide
14 Watermaster readings of replenishment water spread, on a daily basis. PVPA then shall provide
15 Watermaster with a monthly report on available storage and water levels of monitoring wells.

16 1. Compensation. PVPA grants Watermaster this license at no cost other than
17 the continuing costs which may be incurred by PVPA as a result of Watermaster operating the
18 Models.

19 2. No Warranty. PVPA makes no warranty and disclaims all warranties
20 regarding PVPA's Groundwater Model and its subsequent updates or improvements.

21 3. Field Conditions. PVPA shall report to Watermaster any field conditions that
22 may have an impact on Spreading Operations.

23 V. **INDEMNIFICATION**

24 A. Watermaster Obligations. To the extent which is allowed by law, Watermaster shall
25 indemnify and hold harmless, PVPA, its officers, directors, employees, agents, and representatives
26 against any and all claims, demands, costs, and/or liabilities due to, or arising from any act or
27 omission by PVPA, its officers, directors, employees, or agents arising from any activities not
28 connected with the spreading of water under the direction of Watermaster.

1 VI. INSURANCE

2 A. Subject to the above, PVPA shall obtain and maintain during the term of this
3 Agreement the following insurance policies:

4 1. General Liability Insurance: PVPA shall maintain general liability insurance
5 for bodily injury, property damage, personal injury, errors and omissions, and if practicable,
6 flooding. The insurance shall be on an occurrence basis. The policy limits shall be at least
7 \$1,000,000.

8 2. Property: PVPA shall obtain insurance to provide for replacement of real and
9 personal property owned by PVPA in the event of loss by fire, flood or vandalism. This insurance
10 shall be provided on an occurrence basis and the policy limits shall be at least \$1,000,000.

11 VII. MISCELLANEOUS PROVISIONS

12 A. Effective Date. This Agreement shall not be effective until executed by the Parties
13 and approved by the court upon motion of Watermaster in said action in Case No. KC029152.

14 B. Written Amendments. This Agreement may only be modified, amended, or
15 supplemented by a subsequent writing executed by each Party hereto and approved by the Court
16 with jurisdiction in Case No. KC029152.

17 C. Choice of Law. This Agreement shall be governed by and interpreted under the laws
18 of the State of California.

19 D. Delivery of Notices. All notices permitted or required under this Agreement shall
20 be addressed to the representative Parties at the following address, or such other address as the
21 respective Parties may provide in writing for this purpose:

22 PVPA: President
23 Pomona Valley Protective Association
24 414 Yale Avenue, Suite H
Claremont, California 91711

25 Six Basins Watermaster As may be designated by Watermaster
26
27
28

1 Such Notices shall be deemed made when personally delivered or, when mailed, forty-eight
2 (48) hours after deposit in the U.S. mail, first class postage pre-paid and addressed to the Party at
3 its applicable address.

4 E. Successors and Assigns. This Agreement is binding on and shall inure to the benefit
5 of the Parties, their respective successors in interest and assigns.

6 F. Assignment. No Party shall have the right to assign it rights or delegate any of its
7 obligations hereunder without the express written consent of the other Party.

8 G. Construction. Each Party and/or its respective counsel has taken part in the
9 negotiation, drafting, and preparation of this Agreement, and, therefore, any ambiguity or
10 uncertainty in this Agreement shall not be construed against any Party. To ensure that this
11 Agreement is not construed against any Party, the Parties expressly agree that any common law or
12 statutory provision providing that an ambiguous or uncertain term will be construed against the
13 drafter of an Agreement is waived and shall not apply to the construction of this Agreement.

14 H. Entire Agreement. This Agreement embodies the entire and final Agreement and
15 understanding of the Parties pertaining to the subject matter of this Agreement, and supersedes all
16 prior Agreements, understandings, negotiations, representations, and discussions pertaining to that
17 subject matter, whether verbal or written, of the Parties. The Parties acknowledge that there are no
18 representations, promises, warranties, conditions, or obligations of any Party, or counsel (or any
19 Party), pertaining to that subject matter other than is contained in this Agreement, and that no Party
20 has executed this agreement in reliance on any representation, promise, warranty, condition, or
21 obligation, other than is contained in this Agreement.

22 I. Execution. The Parties to this Agreement acknowledge that they have executed this
23 Agreement voluntarily and without any duress or undue influence. The Parties further acknowledge
24 that they (1) have been represented by counsel of their own choice in connection with the
25 negotiation and execution of this Agreement, or have been advised to seek independent counsel of
26 their own choice prior to executing this agreement; (2) have read this Agreement in its entirety; and
27 (3) have entered into this Agreement of their own volition and not as a result of any representations
28 or advice by other Party or counsel for any other Party.

1 J. Counter Parts. This Agreement may be executed in one or more counterparts, each
2 of which shall be deemed an original, but all of which together shall constitute one and the same
3 instrument. This agreement shall become effective and binding immediately upon its execution by
4 both Parties. This Agreement consists of nine (9) pages, including the signature page.

5 K. Termination. Upon motion made by either Party to this Agreement in accordance
6 with the procedures set forth in Article IX, Section A of the Judgment and approval of the Court,
7 this Agreement shall be terminated.

8
9 DATED: _____ WATERMASTER

10
11 _____
12 By:

13
14 DATED: _____ POMONA VALLEY PROTECTIVE ASSOCIATION

15
16 _____
17 By:

EXHIBIT D

BASE ANNUAL GROUNDWATER PRODUCTION IN EACH BASIN, 1985- 1996

AND TOTAL BASE ANNUAL GROUNDWATER PRODUCTION, 1985- 1996

FOR EACH PARTY, AND EACH PARTY'S PERCENTAGE OF THE AGGREGATE OPERATING SAFE

YIELD FOR THE CANYON, UPPER CLAREMONT HEIGHTS, LOWER CLAREMONT HEIGHTS AND POMONA BASINS

Party	Base Annual Production, Acre Feet per Year				Percentage of Aggregate Operating Safe Yield
	Canyon Basin	Upper Claremont Heights Basin	Lower Claremont Heights Basin	Pomona Basin	
City of La Verne	0	0	0	1,492	7.731
City of Pomona*	0	1,234	961	1,128	17.218
Simpson Paper	0	0	0	691	3.580
Southern Cal. Water Co.	56	2,895	107	3,647	34.741
City of Claremont	0	267	0	268	2.772
Pomona College	0	357	0	0	1.850
City of Upland	408	1,434	0	0	9.544
West End Consolidated Water Company	0	2,972	0	0	15.399
San Antonio Water Company	0	1,383	0	0	7.166
TOTAL	464	10,542	1,068	7,226	100.000%

* Pomona shall have the right to produce an additional 109 acre feet of groundwater per year subject to the following:

(a) Pomona shall provide at least 436 acre feet of recycled water to the property presently designated by the Los Angeles County Assessor as Assessor's Parcel Nos. 834-800-8001, 834-800-8002, 834-800-8009, 834-800-5013 and 834-800-6001.

(b) Pomona's additional production right shall be added to its Base Annual Production Right and shall be subject to all provisions of the Judgment relating to Base Annual Production Rights; provided however, such additional right shall not be subject to transfer or the water produced delivered for use outside the Pomona service area.

(c) To the extent in any year Pomona provides less than 436 acre feet of recycled water to the above described property, the additional right of Pomona shall be reduced to an amount equal to one fourth (1/4) of the amount of recycled water provided. However, no reduction shall occur to the extent the failure to deliver recycled water is the result of sudden occurrences such as storms, floods, fires, earthquakes, accidents or unexpected equipment outage) or acts or omissions of the Los Angeles County Sanitation District which impair the ability of Pomona to make recycled water deliveries.

EXHIBIT E

DESCRIPTION OF REPLENISHMENT PROGRAMS

San Antonio Spreading Grounds

Owned and operated by the Pomona Valley Protective Association (PVPA), this private facility is comprised of 600 acres of spreading grounds on both the east and west sides of San Antonio channel. The grounds consist of ditches, check levees, gates, metering stations, shallow basins and deep basins. The primary source of water for this facility is from San Antonio Creek by way of controlled releases from San Antonio Dam which is owned and operated by the U.S. Army Corps of Engineers. Water is released from the dam directly into San Antonio Flood Control Channel. Upon entering the channel, water is diverted into an underground basin where control gates allow regulated flow onto the spreading grounds. Additional sources of water include uncontrolled surface flows from adjacent properties in San Bernardino and Los Angeles Counties. The Corps coordinates its releases with PVPA. Four metering stations are used for flow measurements, and a series of ditches, check levees, gates and appurtenances allow the water to be directed into shallow and deep basins. Since 1896, PVPA has regularly spread water at its facility.

Thompson Creek Spreading Grounds

Owned and maintained by PVPA, this private facility is comprised of approximately 53 acres of spreading grounds south of Thompson Creek Dam and east of Thompson Creek. PVPA operates this facility with the cooperation of the Los Angeles County Flood Control District. The grounds consist of ditches, check levees, gates, shallow and deep basins. The sources of water for this facility are Cobal, Williams, Palmer, and Padua Creeks which are diverted to the grounds by PVPA with the cooperation of the Los Angeles County Department of Public Works through the Palmer Diversion. Surface runoff is diverted onto the grounds by way of Chicken Creek through a diversion located directly north of the grounds. PVPA's facility can also receive water from Thompson Creek Dam when the reservoir exceeds the elevation of 1625 feet above sea level. Since 1918, PVPA has spread water at this facility.

Pomona Spreading Grounds

Owned and operated by the City of Pomona, this facility is comprised of 8 acres of spreading grounds adjacent to the City's Pedley Water Treatment Plant. The City acquired this property in October 1926. The present deep basin configuration of the facility was completed in 1957. The source of water for this facility is San Antonio Creek water delivered through the Loop Merserve Canyon Water Company pipeline and Evey Canyon water. This facility also receives some local runoff. Water has been spread in this vicinity on and off since about 1897.

Live Oak Spreading Grounds

Owned and operated by the Los Angeles County Department of Public Works, this facility consists of approximately 5 acres of spreading grounds. Approximately 1.5 acres north of Baseline Road and 3.5 acres south of route 30 freeway extension. The source of water for this facility is controlled releases from Live Oak Dam and Live Oak Debris Basin. This facility was first used in the 1961-62 water year.

WATER STORAGE AND RECOVERY AGREEMENT

1. IDENTIFICATION

THIS AGREEMENT dated _____ by and between the CITY OF POMONA, a chartered municipal corporation (Pomona), and the SIX BASINS WATERMASTER, a court appointed entity established by the Los Angeles County Superior Court (Watermaster), and is based upon the following recitals.

2. RECITALS

2.1 Water rights have been adjudicated in the Six Basins Area according to the Judgment in Los Angeles County Superior Court Case No. KC 029152, entitled Southern California Water Company v. the City of La Verne.

2.2 Said Judgment establishes the Watermaster as the court empowered entity responsible for managing the Six Basins Area. Under the provisions of Paragraph VI.B.10 of the Judgment, Watermaster is authorized to enter into Storage and Recovery Agreements with any party holding a base annual production right.

2.3 Pomona is a party holding a base annual production right. In addition, Pomona has historically replenished the Six Basins Area. While Pomona is under no obligation to replenish the Six Basins Area, to the extent that it does augment groundwater supplies in excess of its historical replenishment as provided in Paragraph VI.B.9 of the Judgment, Pomona is authorized to recover such water.

2.4 Spreading and injecting or otherwise recharging groundwater in the Six Basins Area is restricted according to Paragraph IV.B of the Judgment; however, pursuant to Paragraph VI.B.10,

Watermaster is authorized to enter into storage and recovery agreements for the utilization of groundwater storage capacity and for subsequent recovery use or credit by the storing entity.

2.5 Pomona and Water master desire to enter into an agreement for the storage and recovery of water.

3. AGREEMENTS

In consideration for the mutual promises and conditions contained herein and for other valuable consideration, the parties agree as follows:

3.1 Pomona may, subject to the conditions hereinafter set forth, spread and cause to be spread water which would be stored for Pomona's account. The amount of water stored and recovered shall be all amounts it has spread or caused to be spread in the Six Basins Area in excess of 130 acre feet annually as specifically provided in Paragraph VI.B.9 of the Judgment. Without limitation on accumulations, Pomona shall acquire and retain ownership of all such storage in excess of the historical replenishment of 130 acre feet per year until such water is produced by Pomona or transferred as a credit toward any Replacement Water obligation.

3.2 Pomona shall issue a report to Watermaster on a quarterly basis indicating the amount of water which Pomona has spread. The report shall be due the last day of the month next following the end of the relevant quarter.

3.3 Recovery of water by Pomona shall be accounted for as follows:

3.3.1 The first water Pomona produces in a calendar year shall be the carryover of unused rights in accordance with Paragraph III.B.2.

3.3.2 The next such water produced shall be Pomona's Base Annual Production Right.

3.3.3 The next such water produced shall be water stored pursuant to this storage and Recovery Agreement.

3.4 This Agreement shall be effective upon court approval of the Judgment in the above-referenced case.

3.5 Any notices required hereunder may be given by mail postage prepaid and addressed as follows:

TO WATERMASTER:

TO CITY OF POMONA:

Henry Pepper, Director of Utilities
Public Works Department
City of Pomona
505 S. Garey Avenue
Pomona, CA 91769-0660

EXECUTED this _____ day of _____, 1998, at _____, CA.

CITY OF POMONA

By: _____

WATERMASTER

By: _____

EXHIBIT G

INITIAL OPERATING PLAN

1. **Replenishment.** PVPA shall continue to replenish the basin as it has historically done. PVPA shall curtail replenishment when the Index Water Level is at 1455 or higher, where the Index Water Level is the average of the water level elevations above Mean Sea Level for the following five Key Wells:

Upland-Foothill No. 3 (Owner: WECWC)
Mountain View No. 4 (Owner: WECWC)
Miramar No. 3 (Owner: SCWC)
College No. 1 (Owner: Pomona College)
Tunnel Well No. 3 (Owner: Pomona)

On the second Monday of each month owners of the Key Wells shall measure and report to Watermaster and to PVPA the water level elevations in the Key Wells. Water level elevations shall be measured using protocols specified by Watermaster.

2. **Production Measurement and Reporting.** Within 180 days following Entry of Judgment each producer shall have installed on all of its producing wells a calibrated device to measure production. Such devices shall conform to, and be regularly calibrated in accordance with, specifications developed by Watermaster. Each producer shall record the monthly production from each well in acre feet and shall report such monthly production for each well and the total for all wells for the month and for the year to date to Watermaster by not later than the third working day following the end of the month.

3. **Operating Safe Yield.** The initial Operating Safe Yield of the Four Basins is 24,000 acre feet per year.

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a party to the within
3 action. My business address is 21 East Carrillo Street, Santa Barbara, California 93101-2782. On
4 December 21, 1998, I served the within document:

5 **NOTICE OF ENTRY OF JUDGMENT**

6 ☐

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

7 ☒

8 by placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Barbara, California as set forth below.

9 ☐

10 by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.

11 ☐

12 by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

13 SEE ATTACHED LIST

14 I am readily familiar with the firm's practice of collection and processing correspondence for
15 mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day
16 with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion
17 of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

18 ☒

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

19 Executed on December 21, 1998, at Santa Barbara, California.

20
21 GINA M. LANE
22
23
24
25
26
27
28

1 Jess Senecal, Esq.
Lagerlof, Senecal, Bradley and Swift
2 301 North Lake Ave., 10th Floor
Pasadena, CA 91101
3

Tom McPeters, Esq.
San Antonio Water Company
Home Savings of Am. Building, 2nd Floor
4 West Redlands Blvd.
Redlands, CA 92378

4 Art Littleworth, Esq.
Best, Best & Krieger
5 3750 University Ave.
Riverside, CA 92502-1028
6

Jeanne Verville, Esq.
Simpson Paper Company
1301 Fifth Ave., Suite 2800
Seattle, Washington 98101-2613

7 Burt Gindler, Esq.
Morrison & Foerster
8 555 West Fifth St.
Los Angeles, CA 90013-1024
9

10 Steven Kennedy, Esq.
Three Valleys Mutual Water District
11 1839 Commercenter Way
Riverside, CA 92412
12

13 Robert Hawkins, Esq.
Law Offices of Robert C. Hawkins
14 110 Newport Center Drive, Suite 200
Newport Beach, CA 92660
15

16 James Markman, Esq.
Boyd Hill, Esq.
17 Markman, Arczynski, Hanson, Curley
& Slough
18 One Civic Center Circle
Brea, CA 92822-1059
19

20 Arthur Kidman, Esq.
McCormick, Kidman & Behrens
21 695 Town Center Drive, Suite 1400
Costa Mesa, CA 92626-1924
22

23 Jerome Craig, Esq.
Morrison & Foerster, LLP
24 555 West Fifth St., Suite 3500
Los Angeles, CA 90013
25

26 Keith Johnson
Allard, Shelton & O'Connor
27 319 Harvard Ave.
Claremont, CA 91711
28

ORDINANCE NO. 1786

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND AMENDING PART 3, WATER CONSERVATION, SECTIONS 7730 - 7743 OF THE UPLAND MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF UPLAND DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the City Council is concerned that our precious water resources are protected so that city water users can expect to receive a reliable supply of quality water on demand; and

WHEREAS, the City has a responsibility to provide water to residents through the creation and maintenance of the infrastructure necessary to pump, store and distribute water; and

WHEREAS, the City of Upland Municipal Code has not been updated since 1992 to incorporate changes in technology and best management practices.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby amends Section 7730-7743 of the Upland Municipal Code as follows:

PART 3. WATER CONSERVATION

Section 7730.00. Generally

.010 *Declaration of policy.* It is hereby declared that because of the water conditions prevailing in the city, the general welfare requires that the water resources available to the City, Region and State be put to the maximum beneficial use, that the waste or unreasonable use of water be prevented, and that the conservation of water is to be encouraged at all times.

.020 *Authorization.*

The City Manager shall request the City Council to declare that demand for water is anticipated to be in excess of supply, immediately after it appears that such a situation exists or is threatened, if the City Council is in session. If the council is not in session, the City Manager shall immediately cause a request for a special meeting of the City Council to be delivered to each council person who can be located.

The City Council shall have the power to declare the necessity to implement the applicable provisions of this part when in their opinion the demand for

water consumption exceeds the city's available supply (allowing for a safe reserve), or threatens to do so, provided there are no immediate resources available to remedy the situation. Said declaration shall be made by public announcement and shall be published in a newspaper of general circulation and shall become effective immediately upon such publication.

.030 Application.

The provisions of this chapter shall apply to all persons, customers within the City of Upland, or property utilizing city water wherever situated.

.040 Presumption.

For purposes of this chapter, it shall be presumed that a person, corporation or association in whose name the water utility of the city is or was last billed or who is receiving the economic benefit of said water supply has knowingly made, caused, used or permitted the use of water received from the city for a purpose in a manner contrary to any provision of this chapter.

Section 7731.00. Penalties

.010 Compliance; guidelines.

No customer of the City of Upland or person who uses water within the City of Upland shall knowingly use, or permit the use of water in a manner contrary to any provision of this part, or in an amount in excess of that use permitted by the provisions of this chapter or that is reasonably necessary to satisfy the water usage need.

Unless otherwise provided, any person, firm or corporation violating any provision of said Chapter 7 as adopted by reference above, other than the provisions of section 7737 through 7740 of this Code, shall be guilty of an infraction or misdemeanor as hereinafter specified at the City's discretion, and each day or portion thereof such violation is in existence shall be a new and separate offense.

Any person so convicted shall be:

.020 Guilty of an infraction offense and punished by a fine of not less than twenty-five dollars (\$25.00) but not exceeding fifty dollars (\$50.00) for a first violation during any calendar year or declared conservation stage, whichever time period is shorter in duration;

.030 Guilty of an infraction offense and punished by a fine not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) for a second violation during any calendar year or declared conservation stage, whichever time period is shorter in duration;

.040 On conviction of a third violation, guilty of a misdemeanor offense and shall be punished by a fine not less than five hundred dollars (\$500.00) nor more

than one thousand dollars (\$1,000.00) during any calendar year or declared conservation stage, whichever time period is shorter in duration.

- .050 Notwithstanding the above, first or second offense may be charged and prosecuted as a misdemeanor at the City's sole discretion. In addition to the above penalties, such convicted person, firm, corporation or other entity may, in the discretion of the court, be ordered to reimburse the city for all necessary costs incurred through investigation, discovery, analysis, inspection, abatement and other actual costs incurred by the city or its agents pertaining to the violation.

The court shall fix the amount of any such reimbursements upon submission of proof of such costs by the city. Payment of any penalty herein provided shall not relieve a person, firm or corporation, or other entity from the responsibility of correcting the condition resulting from the violation.

- .060 In addition to the above, the water utility director is hereby empowered to enact other penalties and restrictive measures that are intended to abate the conductor circumstances comprising the violation, including but not limited to the following: placement of a flow restricting device upon the water service, locking off of water meter, removal of water meter, and shutting off of the service line valve.

Section 7732.00. Conservation Program – Year Round Stage

The following activities are hereby prohibited:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and all other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety;
- .011 Excessive or unreasonable run off of water or unreasonable spray of the areas being watered. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .020 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;

- .030 Outdoor irrigation of landscape by sprinklers during the hours of 10:00 a.m. to 6:00 p.m. Citizens are encouraged to avoid the use of sprinklers on windy days. Irrigation by hand held hose, drip irrigation, hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .040 Washing of automobiles, trucks, trailers, boats, airplanes, and other types of equipment (mobile or otherwise) unless done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff. However, this section does not apply to the washing of the above-listed vehicles or mobile equipment when conducted on the immediate premises of a commercial carwash;
- .050 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall not provide drinking water to any person unless expressly requested.
- .060 *Exceptions:* None of these restrictions shall apply to the following:
 - .061 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;
 - .062 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscaped irrigation systems.

Section 7733.00. Conservation Program – Moderate Shortage Stage

In the event the City Council determines that the measures outlined in section 7732.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and all other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety;

- .020 Excessive or unreasonable run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;
- .040 Outdoor irrigation of landscape by sprinklers is permitted only on even days of the month for those locations having a street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on odd days of the month for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on even days of the month if located west of San Antonio Avenue or only on odd days of the month if located east of San Antonio Avenue. No outdoor irrigation shall take place between the hours of 10:00 a.m. and 6:00 p.m. Irrigation by hand held hose, drip irrigation, hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment:*
 - .051 The washing of automobiles, trucks, trailers, boats, airplanes and other types of equipment (mobile or otherwise) is prohibited except on the designated outdoor water use days pursuant to section 7733.030 between the hours of 12:00 midnight to 12:00 noon and sundown to 12:00 midnight. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff;
 - .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility;
 - .053 Trucks, trailers and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when

said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to noon. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use;

- .054 Nonprofit and community based organizations' fundraising car washes shall be allowed, provided they are otherwise in accordance with all other provisions of the Upland Municipal Code and this section, and have obtained a permit to operate a nonprofit carwash from the Finance Department, the cost of same to be five dollars (\$5.00), which sum is found to cover the City's costs to issue said permit. Such activities shall be limited to no more than two (2) times in one (1) month. Permit shall become void upon the effective date of the declaration of severe shortage.
- .060 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 The refilling or adding of water to swimming pools is prohibited except on designated outdoor water use days, which shall be the same days as outdoor watering is permitted pursuant to section 7733.030.
- .080 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .090 The irrigation of golf course fairways is prohibited. This section shall not apply to the irrigation of any golf course solely with reclaimed wastewater.
- .100 The use of water from fire hydrants shall be limited to firefighting and emergency related activities and/or other activities necessary to maintain the health, safety, and welfare of the citizens of Upland. This restriction shall not apply to businesses, which require the use of water for land development and building construction processes, pursuant to prior written approval by the Review Board as defined in section 7736.00.
- .110 *Exceptions:* None of the moderate shortage restrictions shall apply to the following uses of water:
 - .111 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;

- .112 The routine and necessary use of water, other than for landscape irrigation, for land development (e.g., roadway base preparation, flushing of utility lines, dust control, concrete and asphalt work) and for building construction processes;
- .113 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscape irrigation systems;
- .114 The use of water necessary to irrigate large, landscaped areas in commercial and institutional establishments as authorized by the terms and conditions of an approved compliance agreement issued by the Review Board, as defined in section 7736.00;
- .115 The use of water pursuant to the approved terms and conditions of a variance granted by the Review Board as defined in section 7736.00.

Section 7734.00. Conservation Program – High Shortage Stage

In the event the City Council determines that the measures outlined in section 7733.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety is prohibited;
- .020 Excessive run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;

- .040 Outdoor irrigation of landscape by sprinklers is permitted only on Wednesday and Sunday for those locations having street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on Tuesday and Saturday for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on Wednesday and Sunday if located west of San Antonio Avenue or only on Tuesday and Saturday if located east of San Antonio Avenue. No outdoor irrigation shall take place between 6:00 a.m. until one (1) hour before sundown. Irrigation by hand held hose, drip irrigation, or hand held bucket or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment:*
- .051 The washing of automobiles, trucks, trailers, boats, airplanes and other types of equipment (mobile or otherwise) is prohibited except on the designated outdoor water use days pursuant to section 7734.040 between the hours of 12:00 midnight to 12:00 noon and sundown to 12:00 midnight. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff;
- .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility;
- .053 Trucks, trailers and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to noon. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use;
- .054 Nonprofit and community based organizations' fundraising car washes shall be allowed, provided they are otherwise in accordance with all other provisions of the Upland Municipal Code and this section, and have obtained a permit to operate a nonprofit carwash from the Finance Department, the cost of same to be five dollars (\$5.00), which sum is found to cover the City's costs to issue said permit. Such

activities shall be limited to no more than two (2) times in one (1) month. Permit shall become void upon the effective date of the declaration of severe shortage.

- .060 All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 The refilling or adding of water to existing swimming pools is prohibited except on designated outdoor water use days which shall be the same days as outdoor water is permitted pursuant to section 7734.040. New pool construction filling shall be by permit only.
- .080 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .090 The waters of golf course tee areas and fairways is prohibited unless done with reclaimed wastewater.
- .100 The use of water from fire hydrants shall be limited to firefighting and emergency related activities and/or other activities necessary to maintain the health, safety, and welfare of the citizens of Upland. This restriction shall not apply to businesses, which require the use of water for land development and building construction processes, pursuant to prior written approval by the Review Board as defined in section 7736.00.
- .110 *Exceptions:* None of the high shortage restrictions shall apply to the following uses of water, provided there is prior written approval by the Review Board as defined in section 7736.00:
 - .111 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;
 - .112 The routine and necessary use of water, other than for landscape irrigation, for land development (e.g., roadway base preparation, flushing of utility lines, dust control, concrete and asphalt work) and for building construction processes;
 - .113 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscape irrigation systems;
 - .114 The use of water necessary to irrigate large landscaped areas in commercial and institutional establishments as authorized by the

terms and conditions of an approved compliance agreement is issued by the Review Board, as defined in section 7736.00.

Section 7735.00. CONSERVATION PROGRAM – SEVERE SHORTAGE STAGE

In the event the City Council determines that the measures outlined in section 7734.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, then the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety is prohibited;
- .020 Excessive run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;
- .040 Outdoor irrigation of landscape by sprinklers is permitted only on Sunday for those locations having street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on Saturday for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on Sunday if located west of San Antonio Avenue or only on Tuesday and Saturday if located east of San Antonio Avenue. No outdoor irrigation shall take place between 6:00 a.m. until one (1) hour before sundown. Irrigation by hand held hoses, drip irrigation, or hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment.*

- .051 The washing of automobiles, trucks, trailers, boats, airplanes, and other types of equipment (mobile or otherwise) is prohibited except as provided elsewhere in this section;
- .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility. Washing of vehicles in such facilities shall occur only between the hours of 6:00 a.m. and 12:00 noon;
- .053 Trucks, trailers, and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to 12:00 noon. Such washing when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use.
- .060 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 Washing sidewalks, driveways, public and private parking areas, tennis courts, patios, or other paved areas, except to alleviate an immediate health hazard is prohibited.
- .080 The refilling or adding of water to existing swimming pools is prohibited except on designated outdoor water use days which shall be the same days as outdoor water is permitted pursuant to section 7735.030. New pool construction filling shall be by permit only.
- .090 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .100 The watering of golf course tee areas and fairways is prohibited unless done with reclaimed wastewater.

Section 7736.00. IMPLEMENTATION

- .010 *Review board; variances, permits and compliance agreements.* A Review Board is hereby established to review special cases, which cannot follow the letter of this part. Said Review Board shall consist of the Water Utility Direc-

tor, the City Engineer, the Fire Chief, the City Planning Director and the City Attorney, or their appointed representative.

- .011 Appeal of Review Board decisions shall be made to the City Council. It is the purpose of the Review Board to review special cases and to determine whether or not said case warrants a variance, permit or compliance agreement including conditions of approval. Said board shall consider the facts of each case and decide whether to grant a variance or a permit or to enter into a compliance agreement within five (5) working days of the receipt of a properly completed "Application for Variance/Permit/Compliance Agreement" form.
- .012 A variance shall be granted only for reasons of economic hardship, which is defined as a threat to an individual business's primary source of income. (Under no circumstances shall inconvenience or the potential for damage of landscaping be considered an economic hardship, which justifies a variance.) The board shall authorize only the implementation of equitable water use restrictions, which further the purpose and intent of the water conservation plan. The special water use restrictions authorized by the board in each case shall be set forth on the face of the variance, permit or compliance agreement. A nonrefundable fee of fifty dollars (\$50.00) per permit application for all requests shall be assessed to reimburse the City for administrative costs.
- .020 A variance or permit issued under moderate shortage shall not be valid upon implementation of high or severe shortage stages unless the permit specifically addresses either or both of those stages upon initial issuance. Said multi-stage permit would have to reflect significant additional savings of water, or nonuse of water, under progressively more critical shortage stages. A variance or permit shall expire under its own terms and conditions and/or when another water conservation stage is in effect.
- .021 *Exception:* If, within the period of the permit, the conservation stage for which the permit was originally issued is reinstated, the permit will be considered valid until the original expiration date, as long as that conservation stage is in effect.
- .030 Any person, corporation or association who is issued a variance or permit and makes use of water pursuant to said variance, permit or compliance agreement shall provide proof of said variance, permit or compliance agreement upon demand by any peace officer or person authorized by the city to enforce this chapter.
- .040 Upon conviction of a person, corporation or association of violating any provision of this part, the Review Board shall revoke any permit, variance, or compliance agreement previously granted. However, the board shall notify applicant of the proposed revocation five (5) working days before taking such

action, and applicant shall be given the opportunity to be heard by the Review Board prior to its taking such action.

- .050 Persons wishing to appeal the decision of the Review Board shall have the right of appeal to the City Council. Appeal shall be made in writing within ten (10) working days of the Review Board decision. The decision of the City Council shall be final.

PART 4. WATER CONSERVATION RETROFIT

Section 7737.00. RETROFIT

- .010 *Findings and objectives.*

- .011 Water is a precious commodity of limited supply. The City Council is the trustee of the City's domestic water supply. The general welfare of the citizens of Upland and its environs requires that the water resources available to the city be utilized with maximum efficiency.

Section 7738.00. APPLICATION

- .010 When the owner(s) of a facility listed in this Section replaces any plumbing fixture as defined in Section 7739.00, the plumbing fixture shall be replaced with a water conserving plumbing fixture as set forth in Section 7739.00 or otherwise required by law. The provisions of this part shall apply to the following facilities:

- .011 Single-family residences and apartment buildings:

- .012 Commercial buildings;

- .013 Hotels and motels;

- .014 Health and fitness centers;

- .015 Schools and day care centers;

- .016 Shopping centers and malls.

- .020 *The provisions of this part shall not apply to the following facilities:*

- .021 Facilities equipped with water-conserving plumbing fixtures, which meet plumbing device specifications approved by the city building inspection department, pursuant to this part.

- .022 Facilities wherein water use fixtures cannot be retrofitted to achieve further water use reduction, as determined by the Chief Building

Official, pursuant to this part and recorded in the City's permanent records.

- .023 Facilities wherein water use reduction would threaten health and/or safety or historical cultural value of a structure, where such condition is documented by affidavit submitted to and approved by the chief building officials.
- .024 Facilities wherein retrofitting for water use reduction cannot be done so as to ensure a three-year simple pay-back period, as determined by the chief building official on the basis of generally accepted business principles. Simple payback is based upon contractor-installed cost of labor and material.

Section 7739.00. DEFINITIONS

In this chapter, the following special terms have the following meanings:

Aerator: A device attached to a faucet outlet which reduces flow by introducing air bubbles into the water stream, thereby reducing the degree of splashing and creating the appearance of a greater flow than actually exists.

City water utility customer: Any individual, association, corporation, partnership or entity which obtains all or a portion of its water supply from the city.

Flow restrictor: An in-line device incorporated into a faucet to reduce the opening through which water passes, thereby yielding a maximum flow increasing roughly in proportion to water pressure.

Flush tank water saver: A flexible, double-edged panel to be used as a dam to withhold part of the flush tank water that would normally drain into the bowl upon flushing.

Flush valve water saver: A device installed in flush valves of commercial toilets and urinals in order to shorten the flush cycle and reduce the volume of water flow during flush.

Low flow self-cleaning showerhead: A showerhead device, furnished with one-half-inch IP thread to fit standard shower arms, designed to provide dispersed water flow and contain built-in mechanism to reduce the amount of water allowed to flow when operating. The device is also capable of automatically cleaning debris such as mineral deposits, rust scale or other impurities from the water channels or pores located in the showerhead without the use of special tools.

Owner: Any individual, association, nonprofit corporation, professional association, joint stock company, corporation, proprietorship, partnership or joint venture, having a freehold interest in a facility listed in section 7738.00 herein.

Spray tap: A faucet, which delivers water in a broad pattern of droplets and is capable of reducing the flow rate to one or two (2) gallons per minute (gpm).

Water conservation retrofit: The modification and/or replacement of fixtures or trim with fixtures and trim not exceeding the following flow rates and/or water usage. These rates are based on a pressure at the fixture of twenty (20) to eighty (80) psi.

	Gallons
(1) Toilets, tank type, per flush	1.6
(2) Urinals, tank type, per flush	1.0
(3) Showerheads, per minute	2.5
(4) Bathroom and kitchen faucets, per minute	2.2

Section 7740.00. WATER CONSERVATION STANDARDS

.010 *Toilets.* The owner of a facility listed in section 7738.00 herein, where such facility itself, or the individual tenants or users of such facility are city water utility customers, shall install and maintain toilet(s) conforming to the specification indicated in section 7739.00.

.020 *Enforcement.*

.021 As of May 23, 1990, the violation of Section 7737 through section 7740 of the Upland Municipal Code shall be a misdemeanor offense and upon conviction, any person violating these sections shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00) or by imprisonment in the county jail not exceeding six (6) months or both.

.022 An alleged violator of this chapter shall be given written notice thereof and seventy-two (72) hours within which to install, repair or replace the required water conservation devices. Failure to do so will give rise to a presumption of intent to violate this chapter thereafter.

.023 Each day a violation of this chapter continues shall constitute a distinct and separate offense.

.024 Nothing herein shall limit the City's authority to seek injunctive or other civil relief available under the law.

Section 7741.00. WATER CONSERVING PLUMBING FIXTURES FOR NEW CONSTRUCTION

- .010 No certificate of occupancy shall be issued for any new construction unless all plumbing fixtures to be installed meet the requirements set forth in subsection .020 notwithstanding compliance with any other building or plumbing code. As used in this section, new construction means any construction of a previously nonexistent structure requiring a building permit or other discretionary permit issued after the effective date of the ordinance adopting this section.
- .020 *All plumbing fixtures installed in new construction shall meet the following requirements:*
 - .021 Toilets and associated flush valves shall be rated at not more than 1.6 gallons per flush,
 - .022 Urinals and associated flush valves shall be rated at not more than 1.0 gallon per flush,
 - .023 Showerheads shall have a rated flow of 2.5 gallons per minute or less,
 - .024 Bathroom faucets shall have aerators or laminar flow devices together with flow control inserts; valves, devices or orifices that restrict flow to a maximum of approximately 2.2 gallons per minute.
 - .025 City staff shall advise all persons seeking permits for new construction of the plumbing fixture requirements set forth in this section.

Section 7742.00. REQUIREMENTS FOR INSTALLATION OF WATER CONSERVING TOILET FIXTURES

- .010 *Definitions.*
 - .011 Water-Conserving Toilet Fixture: Any toilet and associated flush valve that use no more than 1.6 gallons of water per flush or urinals and associated flush valve that use no more than 1.0 gallons of water per flush.
- .020 *Mandatory Retrofit of all Toilets With Water Conserving Toilet Fixtures.*
 - .021 All existing toilets in existing structures receiving water from the City's water system shall be retrofitted, if not already done, exclusively with water-conserving toilets as defined in Section 7742.020 of this ordinance on, or before July 1, 2006.
- .030 *Compliance and Penalties.*
 - .031 If the retrofit installation required by this regulation is not completed by the required date and the City later determines or finds that the work was not done or was not completed or that the water conserving

toilet fixtures are no longer present, the City may, at its discretion assess a fine of \$500 to the owner of the property. Prior to the imposition of any fine the owner of the property will be provided a cure period of 30 days to demonstrate that the required retrofit work has in fact been done. A site inspection shall be required in such cases and the owner shall be charged a penalty of \$50 for each such site inspection as an added fee on the owner's plumbing permit. If the owner of the property fails to complete the required work after 30 days, water to the property shall be shut-off until such time as the property owner demonstrates compliance with this section.

.032 Variances and Exemption.

.0321 Any owner of real property may seek a variance or exemption from the retrofit requirement. The process shall be as set forth in Section 7736.00.

Section 7743.00. LANDSCAPE GUIDELINES

.010 Purpose.

.011 To promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible; to suggest a structure for designing, installing, and maintaining water efficient landscapes in new projects; and to recommend provisions for water management practices and water waste prevention for established landscapes.

.020 Landscape Design.

.021 It is recommended that the owner consult with a landscape design Professional when designing a new landscape or renovating an existing landscape.

.022 Plants having similar water use shall be grouped together and served by a valve or set of valves with the same schedule.

.023 Plants should be selected appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the landscape site. Protection and preservation of native species and natural areas is encouraged.

.030 Water Features.

.031 Recirculating water should be used for decorative water features.

.032 Pool and spa covers are encouraged.

.040 Irrigation Design.

- .041 It is recommended that the owner consult with an irrigation professional when installing automatic landscaping systems.
- .042 Soil types and infiltration rate should be considered when designing irrigation systems. All irrigation systems should be designed to avoid runoff, low head drainage, over spray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, should be used to closely match application rates to infiltration rates therefore minimizing runoff.
- .043 Special attention should be given to avoid runoff on slopes and to avoid over-spray in planting areas with a width less than ten feet.
- .044 Controllers. Automatic control systems should accommodate all aspects of the design.
- .045 Valves. Separate valves should irrigate plants, which require different amounts of water. If one valve is used for a given area, only plants with similar water use should be used in that area.
- .046 Sprinkler Heads. Heads and emitters should have consistent application rates within each control valve circuit. Sprinkler heads should be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.
- .047 Rain Sensing Override Devices. Rain sensing override devices should be required on all irrigation systems.
- .048 Soil Moisture Sensing Devices. It is recommended that soil moisture sensing devices be considered where appropriate.
- .049 Recycled Water. Recycled water should be used when and where practical.
- .050 Automatic irrigation systems should be operated by an electric time controller set for early morning irrigation. The controller shall support a minimum of three start times per irrigation day per valve (station) and shall permit programming each valve with individual run times.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Upland hereby declare that they would have adopted each section, subsection, sentence, clause,

phrase, or portion of this Ordinance, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

The foregoing ordinance was PASSED, APPROVED AND ADOPTED by the City Council of the City of Upland on the 11th day of July, 2005.

Kenneth W. Willis, Mayor Pro Tem

ATTEST:

Stephanie A. Mendenhall, City Clerk

I, Stephanie A. Mendenhall, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 27th day of June, 2005, and was adopted at a regular meeting of the City Council of the City of Upland on the 11th day of July, 2005, by the following roll call vote:

AYES: Mayor Pro Tem Willis, Councilmembers Musser, Thomas

NOES: None ABSENT: Mayor Pomierski, Councilmember Brant

ABSTAINED: None

Stephanie A. Mendenhall, City Clerk

BMP 1 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet three conditions to satisfy strict compliance for BMP 1.

Condition 1: Adopt survey targeting and marketing strategy on time

Condition 2: Offer surveys to 20% of SF accounts and 20% of MF units during report period

Condition 3: Be on track to survey 15% of SF accounts and 15% of MF units within 10 years of implementation start date.

Test For Condition 1

Latest Year RU to Implement Targeting/Marketing Program:

1999

Single Family

Multi Family

Year RU Reported Implementing Targeting/Marketing Program:

2004

2004

RU Met Targeting/Marketing Coverage Requirement:

Yes

Yes

Test For Condition 2

Latest Year Survey Program to Start: 1998

Res Survey Offers (%)

0.04%

0.00%

Select a Reporting Period: 07-08

Survey Offers 20%

No

No

Test For Condition 3

Completed Residential Surveys

Single Family

Multi Family

Total Completed Surveys through 2008

8

0

Credit for Surveys Completed Prior to Implementation of Reporting Database

850

0

Total + Credit

858

0

Res. Accounts in Base Year

16,816

8,296

RU Survey Coverage as % of Base Year Res Accounts

5.10%

0.00%

Coverage Requirement by Year 10 of Implementation per Exhibit 1

13.50%

13.50%

RU on Schedule to Meet 10 Year Coverage Requirement

No

No

BMP 1 Coverage Status Summary

Water supplier is not currently on track to meet the coverage requirements for this BMP.

BMP 2 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU indicated "At least as effective as" Implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet one of three conditions to satisfy strict compliance for BMP 2.

Condition 1: The agency has demonstrated that 75% of SF accounts and 75% of MF units constructed prior to 1992 are fitted with low-flow showerheads.

Condition 2: An enforceable ordinance requiring the replacement of high-flow showerheads and other water use fixtures with their low-flow counterparts is in place for the agency's service area.

Condition 3: The agency has distributed or directly installed low-flow showerheads and other low-flow plumbing devices to not less than 10% of single-family accounts and 10% of multi-family units constructed prior to 1992 during the reporting period.

Test For Condition 1

Report Year	Report Period	Single Family		Multi Family	
		Reported Saturation	Saturation 75%?	Reported Saturation	Saturation 75%?
1999	99-00	20	No	20	No
2000	99-00	22	No	22	No
2001	01-02		No		No
2002	01-02		No		No
2003	03-04		No		No
2004	03-04		No		No
2005	05-06		No		No
2006	05-06		No		No
2007	07-08		No		No
2008	07-08		No		No

BMP 2 Coverage Requirement Status

Test For Condition 2

RU has ordinance
requiring showerhead
retrofit?

Report Year	Report Period	
1999	99-00	No
2000	99-00	No
2001	01-02	Yes
2002	01-02	No
2003	03-04	No
2004	03-04	No
2005	05-06	Yes
2006	05-06	Yes
2007	07-08	Yes
2008	07-08	Yes

Test For Condition 3

1992 SF Accounts	Num. Showerheads Distributed to SF Accounts	Single Family Coverage Ratio	SF Coverage Ratio 10%
<u>16,601</u>	<u>125</u>	<u>0.8%</u>	<u>No</u>
1992 MF Accounts	Num. Showerheads Distributed to MF Accounts	Multi Family Coverage Ratio	MF Coverage Ratio 10%
<u>8,164</u>	<u>50</u>	<u>0.6%</u>	<u>No</u>

BMP 2 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 3 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU Indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet one of two conditions to be in compliance with BMP 3:

Condition 1: Perform a prescreening audit. If the result is equal to or greater than 0.9 nothing more needs be done.

Condition 2: Perform a prescreening audit. If the result is less than 0.9, perform a full audit in accordance with AWWA's Manual of Water Supply Practices, Water Audits, and Leak Detection.

RU operates a water distribution system: Yes

Tests For Conditions 1 and 2

Report Year	Report Period	Pre Screen Completed	Pre Screen Result	Full Audit Indicated	Full Audit Completed
1999	99-00	No	0.0%	Yes	No
2000	99-00	No			No
2001	01-02	No	0.0%	Yes	No
2002	01-02	No	0.0%	Yes	No
2003	03-04	No	0.0%	Yes	No
2004	03-04	No	0.0%	Yes	No
2005	05-06	No	0.0%	Yes	No
2006	05-06	No	0.0%	Yes	No
2007	07-08	Yes	97.4%	No	No
2008	07-08	Yes	98.4%	No	No

BMP 3 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 4 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:

9/23/1991

Reporting Period:

07-08

Rep Unit Category:

Retail Only

RU indicated "At least as effective as" Implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

For agencies signing the MOU prior to December 31, 1997:

100% of existing unmetered accounts to be metered and billed by volume of use by July 1, 2009.

For agencies signing the MOU after December 31, 1997:

100% of existing unmetered accounts to be metered and billed by volume of use by July 1, 2012

OR within six years of signing the MOU (whichever date is later). All retrofits must be completed no later than one year prior to the requirements of state law (January 1, 2025).

Tests For Compliance

Total Meter Retrofits Reported through 2008

0

No. of Unmetered Accounts In Base Year

0

Meter Retrofit Coverage as % of Base Year Unmetered Accounts

No Unmetered Accounts

Coverage Requirement by Year 10 of Implementation

90.0%

RU on Schedule to Meet 10 Year Coverage Requirement

Yes

BMP 4 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 5 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

RU indicated "At least as effective as" Implementation during report period: No

Exhibit 1 Coverage Requirement

An agency must meet three conditions to comply with BMP 5.

Condition 1: Develop water budgets for 90% of its dedicated landscape meter accounts within four years of the date implementation is to start.

Condition 2: (a) Offer landscape surveys to at least 20% of its CII accounts with mixed use meters each report cycle and be on track to survey at least 15% of its CII accounts with mixed use meters within 10 years of the date implementation is to start OR (b) Implement a dedicated landscape meter retrofit program for CII accounts with mixed use meters or assign landscape budgets to mixed use meters.

Condition 3: Implement and maintain customer incentive program(s) for irrigation equipment retrofits.

Test For Condition 1

Report Year	Report Period	BMP 5 Implementation Year	No. of Irrigation Meter Accounts	No. of Irrigation Accounts with Budgets	Budget Coverage Ratio	90% Coverage Met by Year 4
1999	99-00	0	230	0	0.00	NA
2000	99-00	1	230	0	0.00	NA
2001	01-02	2	285	0	0.00	NA
2002	01-02	3	285	0	0.00	NA
2003	03-04	4	285	0	0.00	No
2004	03-04	5	304	0	0.00	No
2005	05-06	6	335	0	0.00	No
2006	05-06	7	351	0	0.00	No
2007	07-08	8	348	0	0.00	No
2008	07-08	9	359	0	0.00	No

Test For Condition 2a (survey offers)

Select Reporting Period:

07-08

Large Landscape Survey Offers as % of Mixed Use Meter CII Accounts:

8.0%

Survey Offers Equal or Exceed 20% Coverage Requirement:

No

BMP 5 Coverage Requirement Status

Test For Condition 2a (surveys completed)

Total Completed Landscape Surveys Reported through 2008	31
Credit for Surveys Completed Prior to Implementation of Reporting Database	851
Total + Credit	882
CII Accounts with Mixed Use Meters in Base Year	1,257
RU Survey Coverage as % of Base Year CII Accounts	70.2%
Coverage Requirement by Year 9 of Implementation per Exhibit 1	11.5%
RU on Schedule to Meet 10 Year Coverage Requirement	Yes

Test For Condition 2b (mixed use budget or meter retrofit program)

Report Year	Report Period	BMP 5 Implementation Year	Agency has mix-use budget program	No. of mixed-use budgets
1999	99-00	0	no	0
2000	99-00	1	no	0
2001	01-02	2	no	0
2002	01-02	3	no	0
2003	03-04	4	no	0
2004	03-04	5	no	0
2005	05-06	6	no	0
2006	05-06	7	no	0
2007	07-08	8	no	0
2008	07-08	9	no	0

Report Year	Report Period	BMP 4 Implementation Year	No. of mixed use CII accounts	No. of mixed use CII accounts fitted with irrig. meters
1999	99-00	1	1206	0
2000	99-00	2	1206	0
2001	01-02	3	17046	0
2002	01-02	4	17046	0
2003	03-04	5	unknown	0
2004	03-04	6	991	0
2005	05-06	7	1126	0
2006	05-06	8	2103	0
2007	07-08	9	1000	0
2008	07-08	10	1000	0

BMP 5 Coverage Requirement Status

Test For Condition 3

Report Year	Report Period	BMP 5 Implementation Year	RU offers financial incentives?	<u>Loans</u>		<u>Grants</u>		<u>Rebates</u>	
				No.	Total Amount	No.	Total Amount	No.	Total Amount
1999	99-00	0	no	0	0	0	0	0	0
2000	99-00	1	no	0	0	0	0	0	0
2001	01-02	2	no	0	0	0	0	0	0
2002	01-02	3	no	0	0	0	0	0	0
2003	03-04	4	no	0	0	0	0	0	0
2004	03-04	5	no	0	0	0	0	0	0
2005	05-06	6	no	0	0	0	0	0	0
2006	05-06	7	no	0	0	0	0	0	0
2007	07-08	8	yes	0	0	109	26160	2	480
2008	07-08	9	yes	0	0	0	0	172	23681

BMP 5 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 6 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU Indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Pre-2004 Exhibit 1 Coverage Requirement

An agency must meet one condition to comply with BMP 6.

Condition 1: Offer a cost-effective financial incentive for high-efficiency washers if one or more energy service providers in service area offer financial incentives for high-efficiency washers.

Revised Exhibit 1 Coverage Requirement

An agency must meet two conditions to comply with BMP 6.

Condition 1: Offer cost-effective financial incentives for high-efficiency washers with Water Factors of 9.5 or less.

Condition 2: Meet Coverage Goal ($CG = \text{Total Dwelling Units} \times 0.0768$) by July 1, 2008. Agencies signing the MOU after July 1, 2003, shall have a prorated Coverage Goal, based on implementation period of less than 4.0 years.

Test For Condition 1

Agency offered cost-effective financial incentives for high-efficiency washers with Water Factors of 9.5 or less: yes

Test For Condition 2

Coverage Goal: 1,843

Total Coverage Points Awarded (incl. past credit): 4,416

% of Coverage Goal: 239.6%

BMP 6 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 7 Coverage Requirement Status

Reporting Unit ID

94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU Indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet one condition to comply with BMP 7.

Condition 1: Implement and maintain a public information program consistent with BMP 7's definition.

Test For Condition 1:07-08

Report Year	Report Period	BMP 7 Implementation Year	RU Has Public Information Program
1999	99-00	1	No
2000	99-00	2	Yes
2001	01-02	3	Yes
2002	01-02	4	Yes
2003	03-04	5	Yes
2004	03-04	6	Yes
2005	05-06	7	Yes
2006	05-06	8	Yes
2007	07-08	9	Yes
2008	07-08	10	Yes

BMP 7 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 8 Coverage Requirement Status

Reporting Unit ID

94

Rep Unit Name:

City of Upland

Date MOU Signed:

9/23/1991

Reporting Period:

07-08

Rep Unit Category:

Retail Only

RU indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet one condition to comply with BMP 8.

Condition 1: Implement and maintain a school education program consistent with BMP 8's definition.

Test For Condition 1

Report Year	Report Period	BMP 8 Implementation Year	RU Has School Education Program
1999	99-00	1	No
2000	99-00	2	Yes
2001	01-02	3	Yes
2002	01-02	4	Yes
2003	03-04	5	Yes
2004	03-04	6	Yes
2005	05-06	7	Yes
2006	05-06	8	Yes
2007	07-08	9	Yes
2008	07-08	10	Yes

BMP 8 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 9 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU Indicated "At least as effective as" Implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed
If exemption filed, type: _____

Exhibit 1 Coverage Requirement

An agency must meet two conditions to comply with BMP 9.

Condition 1: Agency has identified and ranked by use commercial, industrial, and institutional accounts.

Condition 2(a): Agency is on track to survey 10% of commercial accounts, 10% of industrial accounts, and 10% of institutional accounts within 10 years of date implementation to commence.

OR

Condition 2(b): Agency is on track to reduce CII water use by an amount equal to 10% of baseline use within 10 years of date implementation to commence.

OR

Condition 2(c): Agency is on track to meet the combined target as described in Exhibit 1 BMP 9 documentation.

Test For Condition 1

Ranked Commercial Customers **no**

Ranked Industrial Customers **no**

Ranked Institutional Customers **yes**

Rank Coverage Met **No**

Test For Condition 2a

	Commercial	Industrial	Institutional
Total Completed Surveys Reported through 2008	<u>0</u>	<u>0</u>	<u>0</u>
Credit for Surveys Completed Prior to Implementation of Reporting Database	<u>0</u>	<u>0</u>	<u>3</u>
Total + Credit	<u>0</u>	<u>0</u>	<u>3</u>
CII Accounts in Base Year	<u>1,051</u>	<u>2</u>	<u>204</u>
RU Survey Coverage as % of Base Year CII Accounts	<u>0.0%</u>	<u>0.0%</u>	<u>1.5%</u>
Coverage Requirement by Year 9 of Implementation per Exhibit 1	<u>7.7%</u>	<u>7.7%</u>	<u>7.7%</u>
RU on Schedule to Meet 10 Year Coverage Requirement	<u>No</u>	<u>No</u>	<u>No</u>

BMP 9 Coverage Requirement Status

Test For Condition 2b

Coverage Year	Performance Target Savings (AF/Yr)	Performance Target Savings Coverage	Performance Target Savings Coverage Requirement	Coverage Requirement Met
1999	0	0%	0.5%	No
2000	0	0%	1%	No
2001	0	0%	1.7%	No
2002	0	0%	2.4%	No
2003	0	0%	3.3%	No
2004	0	0%	4.2%	No
2005	0	0%	5.3%	No
2006	0	0%	6.4%	No
2007	0	0%	7.7%	No
2008	0	0%	9%	No

Test For Condition 2c

Total BMP 9 Surveys + Credit	3
BMP 9 Survey Coverage	0.2%
BMP 9 Performance Target Coverage	0.0%
BMP 9 Survey + Performance Target Coverage	0.2%
Combined Coverage Equals or Exceeds BMP 9 Survey Coverage Requirement?	No

BMP 9 Coverage Status Summary

Water supplier is not currently on track to meet the coverage requirements for this BMP.

BMP 11 Coverage Requirement Status

Reporting Unit ID

94

Rep Unit Name:

City of Upland

Date MOU Signed:

9/23/1991

Reporting Period:

07-08

Rep Unit Category:

Retail Only

RU indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

Agency shall maintain rate structure consistent with BMP 11's definition of conservation pricing.

Test For Compliance

Fully metered? **Yes**

Water Coverage Met? **Yes**

Provide Sewer Service? **yes**

Sewer Coverage Met? **Yes**

BMP 11 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 11 Sewer Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 12 Coverage Requirement Status

Reporting Unit ID

94

Rep Unit Name:

City of Upland

Date MOU Signed:

9/23/1991

Reporting Period:

07-08

Rep Unit Category:

Retail Only

RU indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

Agency shall staff and maintain the position of conservation coordinator and provide support staff as necessary.

Test For Compliance

Report Year	Report Period	Conservation Coordinator Position Staffed?	Total Staff on Team (incl. CC)
1999	99-00	no	0
2000	99-00	no	0
2001	01-02	no	0
2002	01-02	yes	1
2003	03-04	yes	1
2004	03-04	yes	1
2005	05-06	yes	.3
2006	05-06	yes	.35
2007	07-08	yes	.3
2008	07-08	yes	.8

BMP 12 Coverage Status Summary

Water supplier has met the coverage requirements for this BMP.

BMP 13 Coverage Requirement Status

Reporting Unit ID 94

Rep Unit Name:

City of Upland

Date MOU Signed:
9/23/1991

Reporting Period:
07-08

Rep Unit Category:
Retail Only

RU Indicated "At least as effective as" implementation during report period: No

RU filed an exemption for this BMP during report period: No exemption request filed

If exemption filed, type: _____

Exhibit 1 Coverage Requirement

Implementation methods shall be enacting and enforcing measures prohibiting gutter flooding, single pass cooling systems in new connections, non-recirculating systems in all new conveyer car wash and commercial laundry systems, and non-recycling decorative water fountains.

Test For Compliance

Agency or service area prohibits:

Report Year	Gutter Flooding	Single-Pass Cooling Systems	Single-Pass Car Wash	Single-Pass Laundry	Single-Pass Fountains	Other	RU has ordinance that meets coverage requirement
1999	yes	no	no	no	yes	yes	No
2000	yes	no	no	no	yes	yes	No
2001	yes	yes	yes	no	no	yes	No
2002	yes	no	yes	no	no	yes	No
2003	yes	no	yes	no	no	yes	No
2004	yes	no	yes	no	no	yes	No
2005	yes	no	yes	no	no	yes	No
2006	yes	no	yes	no	no	yes	No
2007	yes	no	yes	no	no	yes	No
2008	yes	no	yes	no	no	yes	No

BMP 13 Coverage Status Summary

Water supplier is not currently on track to meet the coverage requirements for this BMP.

BMP 14 Coverage Requirement Status

Reporting Unit ID: 94

Rep Unit Name:
City of Upland

Base Year: 1997

Rep Unit Category:
Retail Only

Exhibit 1 Coverage Requirement

An agency must meet one of the following conditions to be in compliance with BMP 14.

Condition 1: Retrofit-on-resale (ROR) in effect in service area

Condition 2: Water savings from toilet replacement programs equal to 90% of Exhibit 6 coverage requirement.

An agency with an exemption for BMP 14 is not required to meet one of the above conditions.

The report treats an agency with missing base year data required to compute the Exhibit 6 coverage requirement as out of compliance with BMP 14.

Coverage Year	BMP 14 Data		Exemption Filed with CUWCC	ROR		Exhibit 6 Coverage Req'mt (AF)	Toilet Replacement Program Water Savings (AF)
	Submitted to CUWCC	CUWCC	ALAEA	Ordinance in Effect	ir		
1999	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		75	1,100
2000	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		214	1,260
2001	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		406	1,414
2002	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		642	1,568
2003	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		915	1,754
2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1,218	1,947
2005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1,545	2,244
2006	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		1,891	2,612
2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		2,251	3,016
2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		2,622	3,479

BMP 14 Coverage Requirement Status

BMP 14 Coverage Status Summary: 2011

Water supplier is not currently on track to meet the coverage requirements for this BMP.



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

Agency: **City of Upland** District Name: **City of Upland** CUWCC Unit #: **94**
Retail: **city of upland**

Primary Contact: **Allison Lauckh** Telephone: **#REF!** Email: **alouckh@ciupland.ca.us**

Compliance Option Chosen By Reporting Agency:
(National, Flex Track or GPCD)
GPCD if used.

GPCD in 2010: **243**
GPCD Target for 2018: **222**

Year		Report Target		Highest Acceptable Bound	
		% Base	GPCD	% Base	GPCD
2010	1	95.4%	261	100%	271
2012	2	92.8%	252	95%	261
2014	3	89.2%	242	93%	252
2016	4	85.6%	232	90%	242
2018	5	82.0%	222	82%	222

Not on Track if 2010 GPCD is \geq than target

GPCD in 2010: **243**
Highest Acceptable GPCD for 2010: **271**
On Track



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

Foundational BMPs BMP 1.1 Operational Practices

1.Conservation Coordinator provided with necessary resources to implement BMPs?	Name Title Email	2009		2010		Conservation Coordinator provided with necessary resources to implement BMPs?
		Alison Senior Management Analyst aloukeh@cityofupland.ca.us On Track	Loukeh Senior Management Analyst aloukeh@cityofupland.ca.us On Track	Alison Senior Management Analyst aloukeh@cityofupland.ca.us On Track	Loukeh Senior Management Analyst aloukeh@cityofupland.ca.us On Track	
2. Water waste prevention documentation Descriptive File	Descriptive File	#REF!		#REF!		On Track. If any one of the 6 ordinance actions done, plus documentation or links provided
	Descriptive File 2010	URL	URL	URL	URL	
	URL 2010	http://www.cityofupland.ca.us/	http://www.cityofupland.ca.us/	http://www.cityofupland.ca.us/	http://www.cityofupland.ca.us/	
Describe Ordinance Terms	Describe Ordinance Terms	Text is too large to fit in this space, it will be transferred to the database when available.		Text is too large to fit in this space, it will be transferred to the database when available.		
	Describe Ordinance Terms 2010	On Track		On Track		



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

BMP 1.2 Water Loss Control

	2009	2010
Complete a prescreening Audit	no	Not on Track
Metered Sales	20,082	
Verifiable Other Uses	1	
Total Supply	21,086	
(Metered Sales + System uses/Total Supply > 0.89)	0.92	On Track
If ratio is less than 0.8, complete a full scale Audit in 2009?	N/A	On Track
Verify Data with Records on File?	N/A	On Track
Operate a system Leak Detection Program?	Yes	On Track

On Track if Yes

On Track if >= 89, Not on Track if No

On Track if Yes

On Track if Yes

On Track if Yes

On Track if Yes, Not on Track if No

On Track if Yes, Not on Track if No

Info only until 2012

Info only until 2012

Info only until 2012

On Track if Yes, Not on Track if No

On Track if Yes, Not on Track if No

Info only until 2012

Info only until 2012

	2010	2011
Compile Standard Water Audit using AWWA Software?	Yes	On Track
AWWA file provided to CUWCC?	Upland AWWA water audit file	On Track
AWWA Water Audit Validity Score?	72	
Completed Training in AWWA Audit Method?	No	
Completed Training in Component Analysis Process?	No	
Complete Component Analysis?	No	
Repaired all leaks and breaks to the extent cost effective?	Yes	On Track
Locate and repair unreported leaks to the extent cost effective.	Yes	On Track
Maintain a record-keeping system for the repair of reported leaks, including time of report, leak location, type of leaking pipe, segment or fitting, and leak running time from report to repair.		
Provided 7 types of Water Loss Control Info		
Leaks Repaired	1471	
Value Real Losses	\$ -	
Value Asset Losses	\$ -	
Miles Surveyed	240	
Press. Reduction	Off	
Cost of Interventions	\$ -	
Water Saved	0	



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

1.3 METERING WITH COMMODITY RATES FOR ALL NEW CONNECTIONS AND RETROFIT OF EXISTING CONNECTIONS

Exemption or "At least as Effective As" accepted by CUWCC

Numbered Unmetered Accounts

Metered Accounts billed by volume of use

Number of CII accounts with Mixed Use meters

Conducted a feasibility study to assess merits of a program to provide incentives to switch mixed-use accounts to dedicated landscape meters?

Feasibility Study provided to CUWCC?

Completed a written plan, policy or program to test, repair and replace meters

If signed MOU prior to 31 Dec 1997, On Track if all connections metered; if signed after 31 Dec 1997, complete meter installations by 1 July 2012 or within 6 yrs of signing and 20% biannual reduction of unmetered connections.

	2009	2010
Exemption or "At least as Effective As" accepted by CUWCC	0	0
Numbered Unmetered Accounts	Yes	Yes
Metered Accounts billed by volume of use	0	0
Number of CII accounts with Mixed Use meters	No	No
Conducted a feasibility study to assess merits of a program to provide incentives to switch mixed-use accounts to dedicated landscape meters?	No	No
Feasibility Study provided to CUWCC?	No	No
Completed a written plan, policy or program to test, repair and replace meters	Not On Track	Not On Track

On Track if no unmetered accounts

Volumetric billing required for all connections on same schedule as metering
Info only

Info only until 2012

Info only until 2012

On Track if Yes, Not on Track if No



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

Agency: **City of Upland** District Name: **City of Upland** CUWCC Unit #: **94**
Retail Coverage Report Date: **May 19, 2011**
Primary Contact: **Alison Loukeh** Email: **aloukeh@ci.upland.ca.us**

1.4 Retail Conservation Pricing
Metered Water Rate Structure

Date 2009 data received **May 20, 2011** On Track if: Increasing Block, Uniform,
Allocation, Standby Service; Not on Track if
Date 2010 data received **May 20, 2011** otherwise

Customer Class	2009 Rate Type	Conserving Rate?	Customer Class	2010 Rate Type	Conserving Rate?
Single-Family	Increasing Block	Yes	Single-Family	Increasing	Yes
Multi-Family	Increasing Block	Yes	Multi-Family	Increasing	Yes
On Track					

Year Volumetric Rates began for Agencies with some Unmetered Accounts

Info only

Agencies with Partially Metered Service Areas: If signed MOU prior to 31 Dec. 1997, implementation starts no later than 1 July 2010. If signed MOU after 31 Dec. 1997, implementation starts no later than 1 July 2013, or within seven years of signing the MOU.



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

Adequacy of Volumetric Rates) for Agencies with No Unmetered Accounts

Customer Class	2009 Rate Type	2009 Volumetric Revenues \$1000s	2010 Rate Type	2010 Volumetric Revenues \$1000s
Single-Family	Increasing Block	\$ 11,600	Single-Family	\$ 10,149
Multi-Family	Increasing Block	\$ 2,026	Multi-Family	\$ 1,251
Select a Customer Type	Increasing Block	\$ -	Select a Customer Type	\$ -
Select a Customer Type	Increasing Block	\$ -	Select a Customer Type	\$ -
Total Revenue Commodity Charges (V):		\$ 13,626		\$ 11,400
Total Revenue Fixed Charges (M):		\$ 357		\$ 434
Calculate: V / (V + M):		97%		96%
		On Track		On Track

Agency Choices for rates:

- A) Agencies signing MOU prior to 13 June 2007
implementation starts 1 July 2007: On Track if $(V / (V + M)) \geq 70\% \times .8 = 56\%$ for 2009 and $70\% \times 0.90 = 63\%$ for 2010; Not on track if $(V / (V + M)) < 70\%$;
- B) Use Canadian model. Agencies signing MOU after 13 June 2007, implementation starts July 1 of year following signing.

Canadian Water & Wastewater Rate Design Model
Used and Provided to CUWCC
If Canadian Model is used, was 1 year or 3 year period applied?

No
On Track

No
On Track

Wastewater Rates

Does Agency Provide Sewer Service?

2009 If 'No', then wastewater rate info not required.
Yes

2010
Yes

Customer Class	2009 Rate Type	2009 Conserving Rate?	Customer Class	2010 Rate Type	2010 Conserving Rate?
Single-Family	Uniform	Yes	Single-Family	Uniform	Yes
Multi-Family	Uniform	Yes	Multi-Family	Uniform	Yes
		On Track			On Track

On Track if: 'Increasing Block', 'Uniform', 'based on long term marginal cost' or 'next unit of capacity'



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

BMP 2. EDUCATION PROGRAMS

BMP 2.1 Public Outreach Actions Implemented and Reported to CUWCC

- 1) Contacts with the public (minimum = 4 times per year)
- 2) Water supplier contacts with media (minimum = 4 times per year, i.e., at least quarterly).
- 3) An actively maintained website that is updated regularly (minimum = 4 times per year, i.e., at least quarterly).
- 4) Description of materials used to meet minimum requirement.

5) Annual budget for public outreach program.

6) Description of all other outreach programs

	2009	2010	All 6 action types implemented and reported to CUWCC to be 'On Track'
1) Contacts with the public (minimum = 4 times per year)	19	19	
2) Water supplier contacts with media (minimum = 4 times per year, i.e., at least quarterly).	5	8	
3) An actively maintained website that is updated regularly (minimum = 4 times per year, i.e., at least quarterly).	Yes	Yes	
4) Description of materials used to meet minimum requirement.	Newsletter articles on conservation Flyers and/or brochures, bill stuffers, messages General water conservation information Landscape water conservation media campaign News releases Television contacts Articles or stories resulting from outreach	General water conservation information Flyers and/or brochures, bill stuffers, messages Website Articles or stories resulting from outreach News releases	
5) Annual budget for public outreach program.	\$ 22,269	\$ 25,000	
6) Description of all other outreach programs	Description is too large for text area. Data will be stored in the BMP Reporting database when online.	Description is too large for text area. Data will be stored in the BMP Reporting database when online.	
	On Track	On Track	



CUWCC BMP RETAIL COVERAGE REPORT 2009-2010

Foundation Best Management Practices for Urban Water Efficiency

2.2 School Education Programs Implemented and Reported to CUWCC

Does a wholesale agency implement School Education Programs for this utility's benefit?

Name of Wholesale Supplier?

1) Curriculum materials developed and/or provided by agency

2) Materials meet state education framework requirements and are grade-level appropriate?

3) Materials Distributed to K-6?

Describe K-6 Materials

Materials distributed to 7-12 students?

4) Annual budget for school education program.

5) Description of all other water supplier education programs

	2009	2010	Yes/No
	Yes	Yes	
Metropolitan Water District of Southern California	Metropolitan Water District of Southern California	Metropolitan Water District of Southern California	
Education Workbooks, posters, videos	Curriculum materials, workbooks, videos, and contests that are grade appropriate.		
	Yes	Yes	
	Yes	Yes	
water-use surveys vs the National Theater for Children	Upland participated in the National Theater for Children program sponsored by IEUA. This program distributes water use surveys.		
	Yes	Yes	
	\$ 5,000	\$ 6,000	
Upland belongs to the WEWAC, which provides educational opportunities for	We attend approximately 12 events per year and always have a children's table explaining water conservation to our younger visitors		
	See Wholesale Report	See Wholesale Report	
	On Track	On Track	

All 5 actions types implemented and reported to CUWCC to be 'On Track'

Describe materials to meet minimum requirements

Info Only



California Urban Water Conservation Council

TARGETS / COMPLIANCE (SBX7-7)

Target Summary	2020	2015
Method 1	211.8	238.2
Method 2	N/A	N/A
Method 3	N/A	N/A
Method 4	0.0	0.0

Input cells:
Calculated cells:

GPCD in 2010	243.4
Base daily per capita water use (10-15yr baseline)	264.7
Base daily per capita water use (5yr baseline)	264.1
Max. allowable GPCD target in 2020 (95% x 5yr baseline)	250.9

Base daily per capita water use (10-15yr baseline)
Base daily per capita water use (5yr baseline)
Max. allowable GPCD target in 2020 (95% x 5yr baseline)

Method 1: Baseline per Capita Water Use

80% x Base daily per capita water use (10-15yr baseline): 211.8

2015 Target:	238.2
2020 Target:	211.8

Method 2: Performance Standards

TM 2 Indoor Water Use allowance:	0.0
TM 6 Landscaped Area Water Use:	0.0
TM 7 Baseline CII Water Use:	0.0

2015 Target:	N/A
2020 Target:	N/A

Method 3: Hydrologic Region Targets

Enter the percentage of your service area population in each hydrologic region

Region	Region Name	% Population	GPCD Target
1	North Coast	 	137
2	San Francisco Bay	 	131
3	Central Coast	 	123
4	South Coast	 	149
5	Sacramento River	 	176
6	San Jacinto	 	174
7	Tulare lake	 	188
8	North Lahontan	 	173
9	South Lahontan	 	170
10	Colorado River	 	211

0.0%	2015 Target:	N/A
	2020 Target:	N/A

Method 4:

To be Developed